

## ORDINANCE 09-07

### AN ORDINANCE ADOPTING AND ENACTING A NEW TOWN CODE FOR THE TOWN OF HIDEOUT, UTAH

**WHEREAS**, the town of Hideout, Utah, was recently incorporated, and has been operating with temporary land use regulation and other regulating ordinances; and,

**WHEREAS**, pursuant to 10-3-707 of the Utah Code, the Town Council of Hideout has the power to compile and codify all town ordinances of a general and permanent character into a book which shall be enforced; and

**WHEREAS**, pursuant to 10-3-707 of the Utah Code, the Town Council of Hideout also has the ability to make such changes, alterations, modifications, additions, and substitutions therein as it may deem best to the end that a complete simplified code of the ordinances then enforced may be presented; and,

**WHEREAS**, pursuant to 10-9a-504 of the Utah Code, Hideout adopted a temporary land use regulation and this codified code includes this regulation along with other regulating town ordinances that reflect the desires of the community and the Council; and,

**WHEREAS**, this codified code provides the assurance regarding the use or development of neighboring parcels and is a compelling, countervailing interest to protect the public interests.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF HIDEOUT, UTAH:**

**SECTION I: Repealer.** Ordinance No. 08-11 and any other provision of the Town's Code heretofore adopted are inconsistent herewith, are hereby repealed.

**SECTION II: Enactment.** The Town Code for the Town of Hideout, Utah is hereby adopted and enacted to read as attached and incorporated to this Ordinance as Exhibit A, Hideout Town Code.

**SECTION III: Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

**SECTION IV: Effective Date.** In order to protect the health, safety and welfare of the citizenry and public at large, this ordinance shall go into effect immediately upon posting.

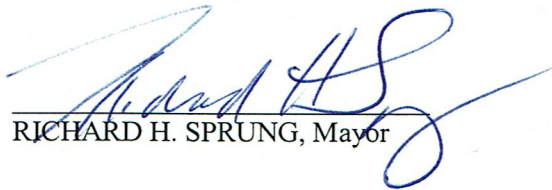
**PASSED AND ADOPTED** by the Town Council of Hideout, Utah, this 25<sup>th</sup> day of March, 2009.

ATTEST:

  
Clerk

Adopted: March 25, 2009

Posted: March 26, 2009

  
RICHARD H. SPRUNG, Mayor

# **TITLE 1A**

## **ADMINISTRATION**

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# **CHAPTER 1**

## **TOWN OF HIDEOUT CODE**

### Section

- 1A.01.101: TITLE
- 1A.01.102: ACCEPTANCE
- 1A.01.103: AMENDMENTS
- 1A.01.104: ALTERATIONS

### **1A.01.101: TITLE:**

Upon adoption by the town council, this code is hereby declared to be and shall hereafter constitute the official town code of The Town of Hideout. This code of ordinances shall be known and cited as the TOWN OF HIDEOUT and is hereby published by authority of the town council and shall be supplemented to incorporate the most recent legislation of the town as provided in section 1A.01.103 of this chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the number, its appropriate chapter and title heading, and to the general penalty clause relation thereto, as well as to the section itself, when reference is made to this code by title in any legal documents.

### **1A.01.102: ACCEPTANCE:**

This code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the town of general and permanent effect, except the excluded ordinances enumerated in section 1A.01.101 of this title.

### **1A.01.103: AMENDMENTS:**

All amendments made to this code shall be by ordinance. Any ordinance amending the town code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this code. All such amendments or revisions by ordinance shall be immediately be prepared for insertion in its proper place in each copy of this code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the town code.

#### **1A.01.104: ALTERATIONS:**

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the town council. The town recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the town recorder. Any person having custody of a copy of the town code shall make every effort to maintain said code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the town recorder. Said code books, while in actual possession of officials and other interested persons, shall be and remain the property of the town and shall be returned to the office of the town recorder when directions so to do by order of the town council.

## **CHAPTER 2**

### **SAVING CLAUSE**

#### Section

- 1A.02.101: REPEAL OF GENERAL ORDINANCES
- 1A.02.102: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES
- 1A.02.103: COURT PROCEEDINGS
- 1A.02.104: SEVERABILITY CLAUSE

#### **1A.02.101: REPEAL OF GENERAL ORDINANCES:**

A. Repealer; Exceptions: All general ordinances of the town passed prior to the adoption of this code are hereby repealed, except such as are included in this code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections,) and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; temporary zoning ordinances; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrant; salary ordinances; fee ordinances; ordinances establishing, naming or ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the town; and all special ordinances.

B. Effect Of Repealing Ordinances: The repeal of the ordinances provided in subsection A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

#### **1A.02.102: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES:**

No ordinance relating with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this code or by virtue of the preceding section, excepting as the town code may contain provisions for such matters, in which case, this code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

### **1A.02.103: COURT PROCEEDINGS:**

A. Prior Acts: No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinances in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. Scope Of Section: This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. Actions Now Pending: Nothing contained in this chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the town herein repealed, and the provisions of all general ordinances contained in this code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the town under any ordinance or provision thereof in force at the time of the adoption of this code.

### **1A.02.104: SEVERABILITY CLAUSE:**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this code, or any part thereof. The town council hereby declares that it would have passed each section, subsection, subdivision, paragraph sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

## **CHAPTER 3 DEFINITIONS**

### **Section**

- 1A.03.101: CONSTRUCTION OF WORDS
- 1A.03.102: GENERAL DEFINITIONS
- 1A.03.103: CATCHLINES

### **1A.03.101: CONSTRUCTION OF WORDS:**

A. Liberal Construction: Except as otherwise provided by laws, all general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and town council may be fully carried out.

B. Interpretation: in the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by the code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

#### **C. Additional Interpretations:**

1. Computation Of Time: The time within which an act is to be done as provided in any ordinance or in any resolution or order of the town, when expressed in days, shall be determined by excluding the first days and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday. When time is expressed in hours, Sunday and all legal holidays shall be excluded.

2. Delegation Of Authority: Whenever a provision appears requiring the town officer to do some act or perform some duty, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

3. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

4. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

5. May/Shall: The word “may” is permissive; the word “shall” is mandatory.
6. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
7. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.
8. Officers Generally: Whenever any officer is referred to by title, such as “recorder”, “treasurer”, etc., such reference shall be construed as if followed by the words “of the Town of Hideout”.
9. Tense: Words used in the past or present tense include the future as well as the past and present.

### **1A.03.102: GENERAL DEFINITIONS:**

Whenever the following words or terms are used in this code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

AGENT:	A person acting on behalf of another with authority conferred, wither expressly or by implication.
CODE:	The town code of the Town of Hideout
COUNTY:	Wasatch County, State of Utah.
FEE:	A sum of money charged by the town for the carrying on of a business, profession or occupation or other activity subject to town regulation, authorization or limitation.
GOVERNING BODY:	The town council of Hideout Town, Utah.
HIGHWAY, ROAD:	Includes public bridges, and my be equivalent to the words “county way”, “county road”, “common road” and “state road”.
LICENSE:	The permission granted for the carrying on



	of a business, profession or occupation.
LOCATION:	Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct or offense prohibited or required shall be within the boundaries of the town.
NUISANCE:	Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the town, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person or persons within the community.
OCCUPANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.
OFFENSE:	Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.
OPERATOR:	The person who is in charge of any operation business or profession.
OWNER:	As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.
PERSON:	Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.
PERSONAL PROPERTY:	Includes every description of money, goods chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged

	or diminished and every right or interest therein.
PROPERTY:	Includes both real and personal property.
REASONABLE TIME:	In all cases where any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.
RETAILER:	Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.
RIGHT OF WAY:	The privilege of the immediate use of the roadway or other property.
STATE:	The state of Utah.
STREET:	Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.
TENANT:	As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with other.
TOWN:	Town of Hideout, Utah
TOWN COUNCIL:	The town council of The Town of Hideout, Utah
WEEK:	Any seven (7) day period.
WHOLESALE:	The terms "wholesaler" and "wholesaler dealer" as used in this code, unless otherwise specifically define, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING:

May include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

### **1A.06.103: CATCHLINES:**

The catchlines of the several sections of the town code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

## **CHAPTER 4**

### **GENERAL PENALTY**

#### Section

1A.04.101: SENTENCING

1A.04.102: OFFENSES DESIGNATED; CLASSIFIED

#### **1A.04.101: SENTENCING:**

##### A. Penalty For Violation Of Ordinance:

1. Criminal: The town council may impose a minimum criminal penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) months, or by both the fine and term of imprisonment.

2. Civil:

A. Except as provided in subsection A2b of this section, the town council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

B. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

B. Term Of Imprisonment For Misdemeanors: A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a class B misdemeanor, for a term not exceeding six (6) months;
2. In the case of a class C misdemeanor, for a term not exceeding ninety (90) days.

##### C. Infractions:

1. A person convicted of any infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.
2. Whenever a person is convicted of any infraction and no punishment is specified, the person may be fined as for a class C misdemeanor.

D. Fines Of Persons: A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$750.00) when the conviction is of a class C misdemeanor conviction or infraction conviction.

E. Fines Of Corporation: The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this code, or the ordinances of the town has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a class B misdemeanor conviction; and

2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

## **1A.04.102: OFFENSES DESIGNATED; CLASSIFIED:**

A. Sentencing In Accordance With Chapter:

1. A person adjudged guilty of an offense under this code or the ordinances of this town shall be sentenced in accordance with the provisions of this chapter.

2. Ordinances enacted after the effective date hereof which involve an offense should be classified for sentencing purposes in accordance with this chapter unless otherwise expressly provided.

B. Designation Of Offenses: Offenses are designated as misdemeanors or infractions;

C. Misdemeanors Classified:

1. Misdemeanors are classified into two (2) categories:

A. Class B misdemeanors;

B. Class C misdemeanors.

2. An Offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this code or any ordinance of this town when no other specification as to punishment or category is made, is a class B misdemeanor.

D. Infractions:

1. Infractions are not classified.
2. Any offense which is made an infraction in this code or other ordinances of this town, or which is expressly designated an infraction and any offense designated as a misdemeanor and for which no penalty is specified is an infraction.

E. Continuing Violation: In all instances where the violation of this code or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

## **CHAPTER 5**

### **MAYOR AND TOWN COUNCIL**

#### **Section**

- 1A.05.101: ELIGIBILITY AND RESIDENCY REQUIREMENTS
- 1A.05.102: ELECTION, TERMS; VACANCIES
- 1A.05.103: MAYOR A MEMBER OF TOWN COUNCIL
- 1A.05.104: MEETINGS; PROCEDURE AND CONDUCT
- 1A.05.105: ORDINANCES AND RESOLUTIONS; PROCEDURES

#### **1A.05.101: ELIGIBILITY AND RESIDENCY REQUIREMENTS:**

A. Declaration Of Candidacy: A person filing a declaration of candidacy for a town office shall:

1. Have been a resident of the town in which the person seeks office for at least three hundred sixty five (365) consecutive days immediately before the date of the election; and
2. Meet the other requirements of Utah Code Annotated section 20A-9-203.

B. Annexed Areas: A person living in an area annexed to the town meets the residency requirement of this section if that person resided within the area annexed to the town for at least three hundred sixty five (365) consecutive days before the date of the election.

C. Registered Voter: Any person elected to town office shall be a registered voter in the town.

D. Residency Maintained: Each elected officer of the town shall maintain residency within the boundaries of the town during officer's term of office.

E. Residence Outside Town: If an elected officer of the town establishes a principal place of residence as provided in Utah Code Annotated section 20A-2-105 outside of the town during the officer's term of office, the office is automatically vacant.

F. Continuous Absence From Town: If an elected town officer is absent from the town any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the town council, the town office is automatically vacant.

### **1A.05.102: ELECTION, TERMS; VACANCY:**

A. Election; Terms: The election and terms of office shall be as follows:

1. The offices of mayor and five (5) council members shall be filled in the municipal election held at the next general municipal election after incorporation of the Town of Hideout, Utah.

2. The terms for the offices of mayor and three (3) other council members shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.

3. The terms for the offices of the remaining two (2) council members shall be for three (3) years. These offices shall be filled every three (3) years in municipal elections.

4. The offices shall be filled in the manner provided for electing municipal officers.

B. Vacancy In Office: Mayor or town council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510.

### **1A.05.103: MAYOR AS MEMBER OF TOWN COUNCIL:**

A. Administration Vested In Mayor: The administrative powers, authority and duties are vested in the mayor.

B. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the town council. In the absence of the mayor or because of his inability or refusal to act, the town council may elect a member of the town council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.

C. Powers And Duties:

1. The mayor is the chief executive officer to whom all employees of the town shall report.

2. The mayor shall:

a. Keep the peace and enforce the laws of the town;

b. Remit fines and forfeitures;



- c. Report remittances under subsection C.2.b. of this section to the town council at its next regular session;
- d. Perform all duties prescribed by law, resolution or ordinance;
- e. Ensure that all the laws and ordinances and resolutions are faithfully executed and observed;
- f. Report to the town council the condition of the town and recommend for town council consideration any measure that the mayor considers to be in the best interests of the town;
- g. When necessary, call on the residents of the town over the age of twenty one (21) years to assist in enforcing the laws of the state and ordinances of the town;
- h. Appoint, with the advice and consent of the town council, persons to fill town offices or vacancies on commissions or committees of the town; and
- i. Report to the town council any release granted under subsection C3b of this section.

3. The mayor may:

- a. At any reasonable time, examine and inspect the official books, papers, records or documents of the town or any officer, employee or agent of the town; and
- b. Release any person imprisoned for violation of any town ordinance.

D. No Veto: The mayor shall have no power to veto any act of the town council, unless otherwise specifically authorized by statute.

### **1A.05.105: MEETINGS; PROCEDURES AND CONDUCT:**

A. Regular Meetings: The governing body shall conduct regular meetings, which shall be held on the first and third Wednesday of each month, at the Town hall, which meetings shall begin promptly at three o'clock (3:00) P.M.; provided, that:

- 1. If the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the next following day which is not a legal holiday.

2. The governing body may, by resolution, provide for a different time and place for holding regular meetings of the governing body.

B. Special Meetings: If at any time the business of the town requires a special meeting of the governing body, such meeting may be ordered by the mayor or any three (3) members of the governing body. The order shall be entered in the minutes of the governing body. The order shall provide at least three (3) hours' notice of the special meeting, and notice thereof shall be served by the town clerk on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a member at any specially called meeting constitutes a waiver of the notice required in this section.

### **1A.05.105: ORDINANCES AND RESOLUTIONS; PROCEDURES:**

A. Power Exercised By Ordinance: The town council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the town shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.

B. Form Of Ordinance: Any ordinance passed by the town council shall contain and be in substantially the following order and form:

1. A number;
2. A title which indicates the nature of the subject matter of the ordinance;
3. A preamble which states the need or reason for the ordinance;
4. An ordaining clause which states: "Be it ordained by the Town of Hideout:";
5. The body or subject of the ordinance;
6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the town ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;

8. A line for the signature of the mayor or acting mayor to sign the ordinance;
9. A place for the town clerk to attest the ordinance and affix the seal of the town;
10. Where the mayor may disapprove an ordinance passed by the town council, the ordinance must show that it was passed with the mayor's approval or that if the mayor disapproved the ordinance that it was passed over his disapproval. If the mayor neither approves or disapproves an ordinance, the ordinance should show that it became effective without the approval or disapproval of the mayor.

C. Requirements as to Form; Effective Date:

1. Ordinances passed or enacted by the town council shall be signed by the mayor, or if he absent, by the mayor pro tempore, or by a quorum of the town council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated section 10-3-704(1), (2), (3) or (4).
2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the town council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinances.
3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the town council, whichever is sooner.

D. Publication and Posting Of Ordinances:

1. Before an ordinance may take effect, the legislative body of the town adopting an ordinance, except an ordinance enacted under Utah Code Annotated sections 10.03.706 through 10.03.711, shall:
  - A. Deposit a copy of the ordinance in the office of the town clerk; and
  - B. (1) Publish a short summary of the ordinances at least once:
    - (a) In a newspaper published within the town; or
    - (b) If there is no newspaper published within the town, In a newspaper of general circulation within the town; or
  - (2) Post a complete copy of the ordinance in three (3) public places within the town.

2. A. Any ordinance, code or book, other than the state code, relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the town clerk prior to the adoption of the ordinance by the governing body.

B. Any state law relating to building or safety standards, municipal functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.

C, The ordinance adopting the code or book shall be published in the manner provided in this subsection.

E. Recording, Numbering And Certification Of Passage: The town clerk shall record, in a book used exclusively for the purpose, all ordinances passed by the town council. The town clerk shall give each ordinance a number, if the town council has not already so done. Immediately following each ordinance, or codification of ordinances, the town clerk shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the content, passage and publication or posting of the ordinances or codification.

F. Resolutions:

1. Purpose: Unless otherwise required by law, the town council may exercise all administrative powers by resolution, including, but not limited to:

- a) establishing water and sewer rates;
- b) charges for garbage collection and fees charged for town services;
- c) establishing personnel policies and guidelines; and
- d) regulating the use and operation of the town property. Punishment, fines or forfeitures may not be imposed by resolution.

2. Form: Any resolution passed by the town council shall be in a form and contain sections substantially similar to that prescribed for ordinances.

3. Publication; Effective Date: Resolutions may become effective without publication or posting and may take effect upon passage or at a later date as the town council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

## **CHAPTER 6**

### **OFFICERS AND EMPLOYEES**

#### Section

- 1A.06.101: CREATING OFFICES; FILLING VACANCIES
- 1A.06.102: COMPENSATION
- 1A.06.103: OATHS
- 1A.06.104: TOWN CLERK AND TOWN TREASURER
- 1A.06.105: DEPUTY TREASURER

#### **1A.06.101: CREATING OFFICES; FILLING VACANCIES:**

A. Offices Created By Council: The town council may create any office deemed necessary for the government of the town and provide for filling vacancies in elective and appointive offices.

B. Mayor To Appoint And Fill Vacancies: The mayor, with the advice and consent of the town council, may appoint and fill vacancies in all offices provided for by law or ordinance.

C. Continuation In Office: All appointed officers shall continue in office until their successors are appointed and qualified.

#### **1A.06.102: COMPENSATIONS:**

A. Specified: The monthly compensation of the town officers shall be as follow:

Mayor	\$0.00
Council member	\$0.00
Town treasurer	\$0.00
Town clerk	\$0.00
Deputy clerk	\$0.00
Town attorney	\$0.00
Planning and zoning	\$0.00

B. Payment: The town clerk shall pay each elected officer on the first regular business day of each month. The town clerk shall also pay all statutory officers biweekly, payable on Friday, by delivery of a check drawn on the municipal checking account.

C. Per Diem: Each member of the governing body shall receive mileage and per diem for all trips approved by the governing body according to the schedules adopted by the state and federal per diem rate.

### **1A.06.103: OATHS**

A. Constitutional Oath Of Office: All officers; whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office.

B. Filing: The oath of office required under this section shall be administered by any judge, notary public or by the town clerk; Elected officials shall take their oath of office at twelve o'clock (12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the town clerk.

C. Acts Of Officials Not Voided: No official act of any town officer shall be invalid for the reason that he failed to take the oath of office.

### **1A.06.104: TOWN CLERK AND TOWN TREASURER:**

A. Appointment: On or before the first Monday in February following a town election, the mayor, with the advice and consent of the town council, shall appoint a qualified person to each of the offices of town clerk and town treasurer.

B. Ex Officio Auditor: The town clerk is ex officio the town auditor and shall perform the duties of that office.

### **1A.06.105: DEPUTY TREASURER:**

A. The treasurer, or in absence of the town treasurer, the deputy treasurer appointed by the governing body, must sign all checks prepared by the town clerk under the direction of the mayor.

B. The deputy treasurer shall assume all duties of the town treasurer in the absence of the treasurer as provided in Utah Code Annotated sections 10-5-127 and 10-6-143.

## **CHAPTER 7 ELECTIONS**

### **Section**

1A.07.101: CONDUCT

1A.07.102: PRIMARY ELECTION; WHEN HELD

### **1A.07.101: CONDUCT:**

Subject to Chapter 5 of this Title, election for mayor and council members shall be conducted according to the municipal section of Utah Code Annotated section 20A-9-404(1) and (2).

### **1A.07.102: PRIMARY ELECTION; WHEN HELD:**

This section provides for the candidates for mayor and council members to be nominated at a primary election, if required. A primary election will be held according to the municipal section of the Utah Code Annotated Section 20A-9-404,

## **CHAPTER 8 PURCHASING**

### **Section**

- 1A.08.101: DEFINITIONS
- 1A.08.102: FINANCE OFFICER
- 1A.08.103: REQUISITIONS AND ESTIMATES
- 1A.08.104: PURCHASE APPROVAL REQUIREMENTS
- 1A.08.105: QUOTATION REQUIREMENTS
- 1A.08.106: EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS
- 1A.08.107: PROHIBITED ACTS AND ACTIVITIES

### **1A.08.101: DEFINITIONS:**

Unless the context requires otherwise, the terms as used in this chapter, or in the rules and regulations adopted pursuant to this chapter, shall have the following meaning:

ADEQUATE APPROPRIATION BALANCES:	Sufficient fund balance which must exist in the line item appropriation of the account number against which the purchase order is charged
BIDDING:	Procedure used to solicit quotations on price and delivery from various prospective suppliers of supplies, equipments and contractual services.
CONTRACTUAL SERVICES:	Forecasts of future requirements of supplies, equipment of contractual services submitted by town departments upon request of the mayor or his designee.
LOCAL BIDDER:	A firm or individual who regularly maintains a place of business and transacts business in, or maintains an inventory of merchandise for sale in, or is licensed by or pays sales to, the town.
PUBLIC PROPERTY:	Any item of real or personal property owned by the town.
RESPONSIBLE BID:	An offer, submitted by a responsible bidder, to furnish supplies, equipment or contractual services in conformity with the



specifications, delivery terms, conditions and other requirements included in the invitation for bids.

**RESPONSIBLE BIDDER:**

A bidder who submits a responsible bid; a bidder who has furnished, when requested, information and data to prove that his financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of supplies, equipment or contractual services on which he bids; and a bidder who has not violated or attempted to violate any provision of this chapter.

**SUPPLIES, MATERIALS:**

Any and all articles or things which shall be furnished to or used by any town department.

**TOWN PURCHASE ORDERS:**

Official documents used in committing town funds toward the purchase of supplies, equipment and contractual services.

**TOWN REQUISITIONS:**

Standard forms used by departments providing detailed information as to quantity, description, estimated price, recommended supplier and signature authorization for requested purchases.

**1A.08.102: FINANCE OFFICER:**

The mayor is hereby appointed the finance officer of the town, and is authorized to exercise the powers conferred upon such finance officer as specified in Utah Code Annotated, as amended, as follows:

**A. Authority: The mayor is hereby authorized to:**

1. Approve any payroll checks prepared for an authorized town employee hired in accordance with personnel policies established by town ordinance or resolution. The amount paid to any such authorized employee shall also be in agreement to be specific salary assigned to such employee pursuant to a salary schedule adopted by the governing body or a salary amount assigned by ordinance of the town council.

2. Give final approval to all claims submitted for the payment of routine expenditures, such as utility bills, payroll related expenses, supplies and materials, which were purchased according to authorized purchasing procedures established by ordinance or resolution.

3. Give final approval to all claims submitted for capital purchases which were made pursuant to established purchasing procedures, referenced in the budget document and approved by an appropriate resolution adopted for the current fiscal year budget.

B. Restrictions: The above approval authority delegated to the mayor is hereby subject to the following restrictions:

1. No claim may be approved by the mayor which is not within the duly and legally adopted budget.

2. No claim may be approved which was not made in accordance with personnel and purchasing procedures established by ordinance or resolution.

C. Verified Claims: The above authorization shall not prevent the governing body from approving all or part of a list of verified claims, including a specific claim in an amount in excess of the stated maximum, where certified by the finance officer.

D. Pre-audit Required: The town clerk shall preaudit all claims pursuant to state statute requirements and shall not disburse any payments without appropriate approval. Procedures shall be established whereby documented approval is obtained as authorized by this chapter.

### **1A.08.103: REQUISITIONS AND ESTIMATES:**

All persons responsible for a department in the town shall file with the town clerk, detailed requisitions or estimates of their requirements in supplies and contractual services in such a manner, at such times and for such future periods as the mayor and/or town council shall prescribe.

### **1A.08.104: PURCHASE APPROVAL REQUIREMENTS:**

A. Purchases up to One Thousand Five Hundred Dollars (\$1,500.00) may be authorized and must have the approval of the town clerk.

B. Purchases up to Thirty Thousand Dollars (\$30,000.00) may be authorized and must have the approval of the mayor.

C. Purchases over Thirty Thousand Dollars (\$30,000.00) may be authorized and must have the approval of the town council.

### **1A.08.105: QUOTATION REQUIREMENTS:**

#### **A. Specified**

Purchases up to \$5,000.00

No competitive price quotations are required.

Purchases from \$5,001.00 to \$30,000.00

Informal price quotations shall be obtained prior to purchase. It shall be the responsibility of each department to obtain said quotations. Quotations shall be recorded on an "Informal competitive price quotation record". One copy of the quotation record shall remain with the department purchasing the item and one copy shall be attached to the purchase order. At least 3 quotations should be solicited if possible.

Purchases from \$30,001.00 to \$100,000.00

Formal price quotations shall be obtained prior to purchase. Requests for quotations shall be submitted to the town clerk on a "request for quotation" form 10 working days prior to the order date. It shall be the responsibility of the town clerk to obtain formal price quotations from vendors. The town clerk shall deliver all quotations and other pertinent information received from vendors to the mayor. The mayor will review the quotations received and select a vendor, if the quotations received are within his authorized limits, or he will review the quotations and instruct that the item be taken to the town council for approval.

Purchases over \$100,000.00

Formal sealed bids must be obtained prior to purchase. Requests for formal bids shall be submitted to the town clerk. The request must receive town council approval prior to the town clerk sending out notice for "formal invitation to bid". Sealed bids shall

be submitted as designed in the notice with the statement “bid for (item)” on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during the regular business hours for a period of not less than 30 days after the bid opening

B. Rejection Of Bids: In its discretion, the town council may reject without cause any/all bids presented, and re-advertise for bids pursuant to the procedure hereinafter prescribed.

C. Award Of Contracts: Except as otherwise provided herein, contracts shall be awarded by the town council to the lowest responsible bidder. In determining “lowest responsible bidder”, in addition to price, the town council shall consider:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
6. The sufficiency of the financial resources and the ability of the contract to provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

D. Award To Other Than Lowest Bidder: When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the town clerk as directed by the mayor and filed with the other papers relating to the transaction.

E. Tie Bids: If two (2) or more bids received are for the same total amount or unit price, quality and service being equal, the town council shall re-advertise for bids unless the matter is otherwise resolved without controversy.

F. Performance Bonds: Before entering a contract, the town council shall have the authority to require a performance bond in such amount as it shall find necessary to protect the best interests of the town. The form and amount of said bond shall be described in the notice inviting bids.

### **1A.08.106: EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS:**

A. Generally: Contracts which by their nature are not adapted to award by competitive bidding, such as contracts for additions to and repairs and maintenance of equipment owned by the town, which may be more efficiently added to, repaired or maintained by a certain person or firm, contract for equipment which, by reason or training of the personnel or an inventory of replacement parts maintained by the town, is compatible with the existing equipment parts maintained by the town, shall not be subject to the competitive bidding requirements of this chapter.

B. Auction, Closeout, Bankruptcy Sales: If the department head determines that supplies, materials or equipment can be purchased at any public auction, closeout sale, bankruptcy sale or similar sale, and if a majority of the town council at a regular or special meeting concurs in such determination and makes the finding that a purchase at any such auction or sale will be made at a cost below the market cost in the community, a contract or contracts may be let, or the purchase made, without complying with the competitive bidding requirements of this chapter.

C. Emergency Purchases:

1. In the case of actual emergency, the head of any department may purchase directly any supplies whose immediate procurement is essential to prevent delays in the work of the department which may virtually affect the life, health or convenience of any employee or citizen of the town.

2. The head of the department shall send to the mayor a full written report of the circumstances of the emergency. The report shall be filed with the town council as provided above.

D. Procurement of Professional Services:

The procurement of professional services shall be based upon qualifications and shall be secured on a competitive basis to the maximum practical extent except as noted below:

Amount Of Contract

Up to \$10,000.00 per fiscal year

Request For Proposals

No RFP required; competitive quotes recommended

Over \$10,000.00 in one fiscal year

Formal request for proposals

The town council shall approve all requests for proposals and approve the award of contracts for professional services exceeding Ten Thousand Dollars (\$10,000.00) in any single fiscal year. Awards shall be made to the individual or firm whose proposal is determined to be the most advantageous to the town, taking into consideration price and the evaluation factors set forth in the request for proposals.

**1A.08.107: PROHIBITED ACTS AND ACTIVITIES:**

A. Conflicts Of Interest: Elected officials, officers and employees that own a substantial interest in a business which does or anticipates doing business with the town must disclose such interest prior to discussion by the governing body.

B. Collusion Among Bidders: Any agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition, by agreement to bid a fixed price, or otherwise, shall render the bid of such bidders void.

C. Advance Disclosures: Any disclosures in advance of the opening of bids, whether in response to advertising or an informal request for bids, made or permitted by a member of the town council or a town employee, shall render void the advertisement or request for bids.

D. Gratuities: The acceptance of any gratuity in the form of cash, merchandise or any other thing of value by an official or employee of the town from any vendor, contractor or prospective vendor or contractor, shall be cause for removal or other disciplinary action.

E. Competitive Bid Required for Building Improvements:

(1) Bid Requirements: All purchases and contracts, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent, except as noted below:

Amount Of Purchase

Up to \$5,000.00

Bid Required

No bid required-competitive quotes recommended

\$5,001.00 to \$40,000.00

No bid required-competitive quotes recommended

Over \$40,000.00

Formal bid required

(2) Amounts In Excess Of Forty Thousand Dollars:

the (a) If the improvement is a building improvement and the estimated cost of the improvement is in excess of Forty Thousand Dollars (\$40,000.00), town shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days prior to the opening of bids.

(b) The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the lowest bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.

(c) When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.

(d) The town shall send out all bids based on the information provided by staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The town shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.

(3) Amounts Up To Forty Thousand Dollars But In Excess Of Five Thousand Dollars: If the improvement is a building improvement and the estimated cost of the improvement is Forty Thousand Dollars (\$40,000.00) or less, but in excess of Five thousand dollars (\$5,000.00), the town may make the improvement without calling for bid, except as otherwise provided within this chapter.

(4) Purchases Up To Five Thousand Dollars: Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the staff to obtain supplies and services, which have been approved as part of the budget.

(a) Written competitive bids are not required, but staff is encouraged to obtain competitive quotations.

(b) The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.

F. Competitive Bid Required for Public Works Projects:

(1) Requirements: All public works projects, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent except as noted below:

<u>Amount Of Purchase</u>	<u>Bid Requirement</u>
Up to \$5,000.00	No bid required - competitive quotes required
\$5,001.00 to \$125,000.00	Informal bids required (2 if possible)
Over \$125,000.00	Formal bid required

(2) Amounts In Excess Of One Hundred Twenty Five Thousand Dollars:

(a) If the improvement is a public works project and the estimated cost of the improvement or maintenance of existing facilities is in excess of One Hundred Twenty Five Thousand Dollars (\$125,000.00), the town shall, if determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the town at least five (5) days prior to the opening of bids. The cost shall be estimated by the town engineer.

(b) The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the low bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.

(c) When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.

(d) The town shall send out all bids based on the information provided by the staff and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The town shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the staff and the town clerk.

(3) Amounts Up To One Hundred Twenty Five Thousand Dollars, But In Excess Of Five Thousand Dollars: If the improvement is a public works project and the estimated cost of the project is One Hundred Twenty Five Thousand Dollars (\$125,000.00) or less, but in excess of Five Thousand Dollars (\$5,000.00), the



town may make the improvement without calling for bid, except as otherwise provided within this chapter.

(4) Purchases Up To Five Thousand Dollars; Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the department head to obtain supplies and services, which have been approved as part of the budget.

(a) Written competitive bids are not required, but the staff are encouraged to obtain competitive quotations.

(b) The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition.

## **CHAPTER 9**

### **RECORDS ACCESS AND MANAGEMENT**

#### Section

1A.09.101: RECORDS ACCESS AND MANAGEMENT ACT ADOPTED BY  
REFERENCE

#### **1A.09.101: RECORDS ACCESS AND MANAGEMENT ACT ADOPTED BY REFERENCE:**

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah Government Records Access and Management Act, Utah Code Annotated section 63-2-101 et seq., as amended, are hereby adopted by the town. Any and all violations thereof shall be considered violations of this chapter and each such violation shall subject the violator thereof to penalty provisions under this chapter if proceeded hereunder.

## **CHAPTER 10 IMPACT FEES**

### **Section**

- 1A.10.101: REPORTS APPROVED AND ADOPTED
- 1A.10.102: IMPACT FEES IMPOSED
- 1A.10.103: SERVICE AREAS
- 1A.10.104: TIME OF COLLECTION
- 1A.10.105: ADJUSTMENT OF IMPACT FEES
- 1A.10.106: ACCOUNTING, EXPENDITURE AND REFUND
- 1A.10.107: ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE
- 1A.10.108: CHALLENGE BY ARBITRATION

### **1A.10.101: REPORTS APPROVED AND ADOPTED:**

The town council hereby approves and adopts the reports from [Reserved] entitled “[Reserved]”; and the analysis reflected therein for each of the impact fees in question.

### **1A.10.102: IMPACT FEES IMPOSED:**

Impact fees are hereby imposed as a condition of the issuance of a building permit by the town for any development activity which creates additional demand and need for public facilities for the culinary water system and the wastewater (sewer) system as set forth in [Reserved], attached to the ordinance codified herein, and incorporated herein by this reference.

### **1A.10.103: SERVICE AREAS:**

The entire area of the town and any areas outside the town serviced by such systems are hereby designated and established as one service area with respect to the culinary water system and the wastewater (sewer) system.

### **1A.10.104: TIME OF COLLECTION:**

Unless otherwise provided by the town council, impact fees shall be paid to the town prior to the issuance of a building permit by the town.

### **1A.10.105: ADJUSTMENTS OF IMPACT FEES:**

A. Authorized: The town may adjust the impact fees imposed pursuant to this chapter as necessary in order to:

1. Respond to unusual circumstances in specific cases;
2. Ensure that the impact fees are imposed fairly;
3. Permits the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the town council; and
4. Allow a credit against impact fees, as approved by the town council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the town facilities or capital improvement plan, or other reasonable plans, and are required by the town as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.

B. Authority Of Planning Commission: The planning commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from other appropriate town officials or employees, including the town engineer.

C. Policies May Be Adopted: The town may adopt policies consistent with this chapter and any resolutions passed by the town council to assist in the implantation, administration and interpretation of this chapter related to municipal impact fees.

D. Appeal: If the applicant, developer, person or entity is not satisfied with the planning commissions; decision, an appeal may be made to the town council under the procedures set for the in section 1A.10.107 of this chapter.

#### **1A.10.106: ACCOUNTING, EXPENDITURE AND REFUND:**

The town shall account for, expend and refund impact fees collected pursuant to this chapter in accordance with the provisions of the Utah Impact Fees Act.

#### **1A.10.107: ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE:**

A. Request For Information: Any person or entity required to pay an impact fee imposed by the town who believes the fee does not meet the requirements of law may file a written request for information with the town as provided by law.

B. Town Response: Within two (2) weeks of the receipt of the request for information, the town shall provide the person or entity with the written analysis required by the act and with any other relevant information relating to the impact fee.

C. Challenge Following Payment Of Fee: Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the town clerk setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the town clerk shall forward the appeal, together with any recommendations from the town engineer, to the town council and shall schedule a public hearing before the town council on the appeal for the purpose of receiving input from all interested persons. The town council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the town clerk. Any person or entity who has failed to comply with the administrative remedies established by this section, may not file or join an action challenging the validity of any impact fee.

D. District Court Review: Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the town council may petition the district court for a review of the decision within ninety (90) days of a decision upholding an impact fee by the town council or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the Fourth District Court for Wasatch County.

E. Records Transferred To Court: In the event a petition is filed with the district court, the town shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

F. Transcripts: If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsections E of this section.

G. Court Review: If there is a record:

1. The district court's review is limited to the record provided by the town; and
2. The district court may not accept or consider any evidence outside the town's record unless that evidence was offered to the town and the court determines that it was improperly excluded by the town.

H. Inadequate Record: If there is an inadequate record, the court may call witnesses and take evidence.

I. Affirmation Of Town Decision: The district court shall affirm the decision of the town if the decision is supported by substantial evidence in the record.

### **1A.10.108: CHALLENGE BY ARBITRATION:**

A. Request For Arbitration: Each person or entity intending to challenge and impact fee under section 1A.10.107 of this chapter shall file a written request for arbitration with the town within thirty (30) days.

B. Selection Of Panel: If a person or entity files a written request for arbitration under subsection A of this section, an arbitrator or arbitration panel shall be selected as follows:

1. The town and the person or entity filling the request may agree on a single arbitrator within ten (10) days after the day the request for arbitration is filed; or
2. If a single arbitrator is not agreed to in accordance with subsection B1 of this section, an arbitration panel shall be created with the following members:
  - a. Each party shall select an arbitrator within twenty (20) days after the day the request is filed; and
  - b. The arbitrators selected under subsection B2a of this section shall select a third arbitrator.

C. Hearing: The arbitration panel shall hold a hearing on the challenge within thirty (30) days after the date:

1. The single arbitrator is agreed upon under subsection B1 of this section; or
2. The two (2) arbitrators are selected under subsection B1a of this section.

D. decision: The arbitrator or arbitration panel shall issue a decision in writing within ten (10) days from the date the hearing under subsection C. of this section is completed.

E. State Statute Applicability: Except as provided in this section, each arbitration shall be governed by Utah Code Annotated title 78, chapter 31a, the Utah Arbitration Act.

F. Types Of Arbitration: The parties may agree to:

1. Binding arbitration
2. Formal, nonbinding arbitration; or
3. Informal, nonbinding arbitration.

G. Binding Arbitration: If the parties agree in writing to binding arbitration:

1. The arbitration shall be binding;

2. The decision of the arbitration panel shall be final;
3. Neither party may appeal the decision of the arbitration panel; and
4. Notwithstanding subsection J of this section, the person or entity challenging the impact fee may not also challenge the impact fee under section 1A.10.107 of this chapter, nor under Utah Code annotated section 11-36-401(1), (4)(c)(i) or (4)(c)(iii).

#### H. Formal, Nonbinding Arbitration:

1. Except as provided in subsection H2 of this section, if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Utah Code Annotated Title 63, chapter 46b, Administrative Procedures Act.
2. For purposes of applying Utah Code Annotated title 63, chapter 46b, Administrative Procedures Act, to formal, nonbinding arbitration under this section, notwithstanding Utah Code Annotated section 63-46b-20, “agency” means Town of Hideout.

#### I. Appeal From Informal, Nonbinding Arbitration:

1. An appeal from a decision in an informal, nonbinding arbitration may be filed with the Fourth District Court.
2. Each appeal under subsection I1 of this section shall be filed within thirty (30) days after the date the arbitration panel issues a decision under subsection D of this section.
3. The district court shall consider de novo each appeal filed under this subsection.
4. Notwithstanding subsection J of this section, a person or entity that files an appeal under this subsection may not also challenge the impact fee under section 1A.10.107 of this chapter nor under Utah Code Annotated section 11-36-401(1), (4)(c)(i) or (4)(c)(iii).

#### J. Exceptions:

1. Except as provided in subsections G4 and I4 of this section, this section may not be construed to prohibit a person or entity from challenging an impact fee as provided un subsection 1A.10.107 A of this chapter, or Utah Code Annotated section 11-36-401(1), (4)(c)(i) or (4)(c)(iii).

2. The filing of a written request for arbitration within thirty (30) days tolls all time limitations under 1A.10.107 of this chapter until the date the arbitration panel issues a decision.

K. Costs: The person or entity filing a request for arbitration and the town shall equally share all costs of an arbitration proceeding under this section.



# **CHAPTER 11**

## **CONSTITUTIONAL TAKING ISSUES**

### Section

- 1A.11.101: POLICY CONSIDERATIONS
- 1A.11.102: DEFINITION OF CONSTITUTIONAL TAKING
- 1A.11.103: GUIDELINES ADVISORY
- 1A.11.104: REVIEW OF DECISION
- 1A.11.105: REVIEWING GUIDELINES
- 1A.11.106: RESULTS OF REVIEW

### **1A.11.101: POLICY CONSIDERATIONS:**

There is an underlying policy in the town, strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending lawsuits alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property must be preserved and the public's right to require the dedication or exaction of property consistent with the constitution. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist governments in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review is to be provided, as well as guidelines for such considerations. This chapter is further intended and shall be construed to provide objectively and fairly, review of claims by citizens compensation, yet preserve the ability of the town to lawfully regulate real property and fulfill its other duties and functions.

### **1A.11.102: DEFINITION OF CONSTITUTIONAL TAKING:**

A. Constitutional taking means actions by the town involving the physical taking or exaction of private real property that might require compensation to a private real property owner because of:

1. The fifth or fourteenth amendment to the constitution of the United States;
2. Article 1, section 22, of the Utah constitution;
3. Any court ruling governing the physical taking or exaction of private real property by a government entity.

B. Actions by the town involving the physical taking or exaction of private real property is not a constitutional taking if it:

1. Bears an essential nexus to a legitimate governmental interest; and
2. Is roughly proportionate and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest.

### **1A.11.103: GUIDELINES ADVISORY:**

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the town's ability for a constitutional taking. The reviewing body or person shall not be required to make any determination under this chapter, except pursuant to section 1A.11.104 of this chapter.

### **1A.11.104: REVIEW OF DECISION:**

Any owner of private real property who claims there has been a constitutional taking of their private real property shall request a review of a final decision of any officer, employee, board, commission or council. The following are specific procedures established for such a review:

- A. Final Determination Required: The person requesting a review must have obtained a final and authoritative determination, internally, within the town, relative to the decision from which they are requesting review.
- B. Request For Review: Within thirty (30) days from the date of the final decision that gave rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the town clerk, a request for review of that decision. A copy shall also be filed with the town attorney.
- C. Review Time Set: The town, or an individual or body designated by the town, shall immediately set a time to review the decision that gave rise to the constitutional takings claim.
- D. Required Information; Materials: In addition to the written request for review, the applicant must submit prior to the date of the review, the following:
  1. Name of the applicant requesting review;
  2. Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for profit or not for profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners;

3. A detailed description of the grounds for the claim that there has been a constitutional taking;
4. A detailed description of the property taken;
5. Evidence and documentation as to the value of the property taken, including the date and cost on the date the property was acquired. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship if any, between the person requesting a review and the party from whom the property was acquired;
6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
7. Terms (including sales price) of any previous purchase or sale of a full or partial interest in the property in the three (3) years prior to the date of application;
8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;
9. The assessed value of and ad valorem taxes on the property for the previous three (3) years;
10. All information concerning current mortgages or other loans secured by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of purchasers to assume the loan;
11. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
12. All studies commissioned by the petitioner or agents of the petitioner within the previous three (3) years concerning feasibility of development or utilization of the property;
13. For income producing property, itemized income and expense statements from the property for the previous three (3) years;
14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and

15. The town or their designee may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.

E. Certification Of Application: An application shall not be deemed to be "complete" or "submitted" until the reviewing body/official certifies to the applicant that all the materials and information required above have been received by the town. The reviewing body/official shall promptly notify the applicant of any incomplete application.

F. Evidence Considered: The town, or an individual or body designated by them, shall hear all the evidence related to and submitted by the applicant, town or any other interested party.

G. Approval, Rejection; Time Limit: A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the town. The decision of the town regarding the results of the review shall be given in writing to the applicant and the office, employee, board, commission or council that rendered the final decision that gave rise to the constitutional takings claim.

H. Failure To Review: If the town council fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

#### **1A.11.105: REVIEWING GUIDELINES:**

The town shall review the facts and information presented by the applicant to determine whether or not the action by the town constitutes a "constitutional taking", as defined in this chapter. In doing so, they shall consider:

A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.

B. Whether a legitimate governmental interest exists for the action taken by the town.

C. Is the property and exaction taken roughly proportionate and reasonably related, on an individual property basis, both in nature and extent to the impact caused by the activities that are the subject of the decision being reviewed.

#### **1A.11.106: RESULTS OF REVIEW:**

After completing the review, the reviewing person/body shall make a determination regarding the above issues and where determined to be necessary and appropriate, shall make a recommendation to the officer, employee, board, commission or council that made the decision that gave rise to the constitutional taking claim.

## **CHAPTER 12**

### **CODE ENFORCEMENT**

#### **Section**

- 1A.12.101: POWER AND AUTHORITY OF OFFICIALS
- 1A.12.102: NOTICE OF VIOLATION
- 1A.12.103: FAILURE TO RESPOND

#### **1A.12.101: POWER AND AUTHORITY OF OFFICIALS:**

The town building inspector, enforcement officer and other town law enforcement personnel, including, but not limited to, the Wasatch County sheriff's department and Wasatch County animal control (enforcing officer), and any person authorized by the mayor and town council to enforce the town's ordinances, are hereafter empowered and authorized to issue a notice of violation in a form approved by the town attorney. The enforcement officer and Wasatch County sheriff's office are hereby authorized to enforce all ordinances of the Town of Hideout. Except that the enforcement officer is not authorized to enforce provisions of the state traffic code, criminal code, or building or fire codes.

#### **1A.12.102: NOTICE OF VIOLATION:**

A. Issuance: The enforcement officer may set down on the notice the reason for which the notice is issued, which should give the person or entity receiving the notice a reasonable time in which to rectify the perceived violation.

B. Not Mandatory: The issuance of a notice as provided for in this section is in addition to, and not in lieu of, any other methods or procedures currently in place for prosecuting violations of town ordinances and the issuance of such notice is not and shall not be considered mandatory or a prerequisite for otherwise finding a violation of a town ordinance.

#### **1A.12.103: FAILURE TO RESPOND:**

If a person or entity receiving a notice as described in this chapter does not respond and rectify the perceived violation within the time permitted by the notice, then and in that event, such failure shall be considered a violation of this chapter.

## **CHAPTER 13**

### **CAMPAIGN FINANCE**

#### **Section**

- 1.13.101: SCOPE
- 1.13.102: DEFINITIONS
- 1.13.103: FILING OF DISCLOSURE REPORTS
- 1.13.104: TIME OF FILING
- 1.13.105: CONTENTS OF STATEMENTS
- 1.13.106: PUBLIC INFORMATION
- 1.13.107: PENALTY

#### **1.13.101: SCOPE:**

All candidates for elective municipal office shall comply with the following campaign disclosure requirements.

#### **1.13.102: DEFINITIONS:**

The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

##### **CANDIDATE:**

Any person who files a declaration of candidacy for an elective office of the town; or is nominated by a committee or party; or received contributions or made expenditures or consents to another person receiving contributions or making expenditures with a view to bringing about such person's nominations or election to such office; or causes on his behalf, any written material or advertisement to be printed, published, broadcast, distributed or disseminated which indicates an intention to seek such office.

##### **CONTRIBUTION:**

Monetary and non-monetary contributions such as in-kind contributions and contributions of tangible things, but shall not include personal services provided without compensation by individuals volunteering their time on behalf of a candidate.

ELECTION:	Both primary and general elections.
EXPENDITURE:	A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination or election of any candidate.

### **1.13.103: FILING OF DISCLOSURE REPORTS:**

Each candidate for elective offices shall file with the town clerk dated, signed, and sworn financial reports, which comply with this chapter.

### **1.13.104: TIME OF FILING:**

The reports required by this chapter shall be filed at least once seven (7) days before the primary and general municipal election, and at least once thirty (30) days after the municipal election.

### **1.13.105: CONTENTS OF STATEMENTS:**

A. The statement filed seven (7) days before the election shall include:

1. A list of each contribution of more than fifty dollars (\$50.00) received by the candidate, and the name of the donor;
2. An aggregate total of all contributions of fifty dollars (\$50.00) or less received by the candidate; and
3. A list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

B. The statement filed thirty (30) days after the elections shall include:

1. A list of each contribution of more than fifty dollars (\$50.00) received after the cutoff date for the statement filed seven (7) days before the election, and the name of the donor;
2. An aggregate total of all contributions of fifty dollars (\$50.00) or less received by the candidate after the cutoff date for the statement filed seven (7) days before the elections; and

3. A list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven (7) days before the election, and the recipient of each expenditure.

#### **1.13.106: PUBLIC INFORMATION:**

The statements required by this chapter shall be public documents and shall be available for public inspection and copying during all regular town business hours.

#### **1.13.107: PENALTY:**

Any candidate who fails to comply with this chapter is guilty of an infraction.



# **TITLE 1B**

## **FINANCES, FEES AND TAXATION**

Subject

Chapter

Telecommunications Tax

1B

# **CHAPTER 1**

## **TELECOMMUNICATION TAX**

### Section

- 1B.01.101: DEFINITIONS
- 1B.01.102: LEVY OF TAX
- 1B.01.103: RATE
- 1B.01.104: RATE LIMITATION AND EXEMPTION
- 1B.01.105: EFFECTIVE DATE
- 1B.01.106: CHANGES IN RATE OR REPEAL
- 1B.01.107: INTERLOCAL AGREEMENT FOR COLLECTION OF TAX
- 1B.01.108: TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS
- 1B.01.109: REPEAL OF INCONSISTENT TAXES AND FEES

### **1B.01.101: DEFINITIONS:**

As used in this article:

COMMISSION: The Utah State Tax Commission.

CUSTOMER: A. Subject to subsections B and C of this definition, "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

B. For purposes of this article, "customer" means:

1. The person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

2. If the end user is not the person described in subsection B1 of this definition, the end user of telecommunications service.

C. "Customer" does not include a reseller:

1. Of telecommunications service; or

2. For mobile telecommunications service, of

a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

END USER:

A. The person who uses a telecommunications service.

B. For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

GROSS RECEIPTS ATTRIBUTED TO THE MUNICIPALITY:

Those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah code title 59, chapter 12, sales and use tax act and determined in accordance with Utah code section 59-12-207.

GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE:

The revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

A. A tax, fee, or charge:

1. Imposed by a governmental entity;
2. Separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
3. Imposed only on a telecommunications provider;

B. Sales and use taxes collected by the telecommunications provider from a customer under title 59, chapter 12, sales and use tax act; or

C. Interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for

telecommunications service when payment is due.

**MOBILE TELECOMMUNICATIONS SERVICE:**

Is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

**MUNICIPALITY:**

The Town of Hideout.

**PLACE OF PRIMARY USE:**

A. For telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

1. The residential street address of the customer; or
2. The primary business street address of the customer; or

B. For mobile telecommunications service, is as defined in the mobile telecommunications sourcing act, 4 USC section 124.

**SERVICE ADDRESS:**

Notwithstanding where a call is billed or paid:

A. If the location described in this subsection A is known, the location of the telecommunications equipment:

1. To which a call is charged; and
2. From which the call originates or terminates;

B. If the location described in subsection A of this definition is not known but the location described in this subsection B is known, the location of the origination point of the signal of the telecommunications service first identified by:

1. The telecommunications system of the telecommunications provider; or

2. If the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

C. If the locations described in subsection A or B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATIONS  
PROVIDER:

A. Subject to subsections B and C of this definition, a person that:

1. Owns, controls, operates, or manages a telecommunications service; or

2. Engages in an activity described in subsection A1 of this definition for the shared use with or resale to any person of the telecommunications service.

B. A person described in subsection A of this definition is a telecommunications provider whether or not the public service commission of Utah regulates:

1. That person; or

2. The telecommunications service that the person owns, controls, operates, or manages.

C. "Telecommunications provider" does not include an aggregator as defined in Utah code section 54-8b-2.

TELECOMMUNICATIONS SERVICE:

A. Telephone service, as defined in Utah code section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state; and

B. Mobile telecommunications service, as defined in Utah code section 59-12-102:

1. That originates and terminates within the

boundaries of one state; and

2. Only to the extent permitted by the mobile telecommunications sourcing act, 4 USC section 116 et seq.

### **1B.01.102: LEVY OF TAX:**

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

### **1B.01.103: RATE:**

The rate of the tax levy shall be four percent (4%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of a transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah code section 10-1-407.

### **1B.01.104: RATE LIMITATION AND EXEMPTION:**

The rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in this municipality that vote in:

- A. A municipal general election;
- B. A regular general election; or
- C. A local special election.

### **1B.01.105: EFFECTIVE DATE:**

This tax shall be levied beginning July 1, 2008.

### **1B.01.106: CHANGES IN RATE OR REPEAL:**

This article is subject to the requirements of Utah code section 10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in Utah code section 10-1-403.

### **1B.01.107: INTERLOCAL AGREEMENT FOR COLLECTION OF TAX:**

On or before the effective date hereof, the municipality shall enter into the uniform inter-local agreement with the Commission as described in Utah code section 10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

### **1B.01.108: TAXES ERRONEOUSLY RECOVERED FROM CUSTOMERS:**

Pursuant to the provisions of Utah code section 10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunications license tax except as provided in Utah code section 10-1-408.

### **1B.01.109: REPEAL OF INCONSISTENT TAXES AND FEES:**

Any tax or fee previously enacted by this municipality under authority of Utah code section 10-1-203 or title 11, chapter 26, local taxation of utilities limitation is hereby repealed.

Nothing in this article shall be interpreted to repeal any municipal ordinance or fee which provides that the municipality may recover from a telecommunications provider the management costs of the municipality caused by the activities of the telecommunications provider in the rights of way of the municipality, if the fee is imposed in accordance with Utah code section 72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way nor does this article limit the municipality's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this article and locate telecommunications facilities, as defined in Utah code section 72-7-108, in this municipality.

## **TITLE 2**

# **PLANNING COMMISSION**

Subject

Chapter

Planning Commission

1



# **CHAPTER 1**

## **PLANNING COMMISSION**

### Section

- 2.01.101: CREATION
- 2.01.102: QUALIFICATIONS
- 2.01.103: REMOVAL FROM COMMISSION
- 2.01.104: COMPENSATION
- 2.01.105: POWERS AND DUTIES
- 2.01.106: COOPERATION WITH COUNTY
- 2.01.107: RECORD OF PROCEEDINGS
- 2.01.108: RULES AND REGULATIONS

### **2.01.101: CREATION:**

A. Composition; Appointment: Pursuant to the provisions of Utah Code, there is hereby created a planning commission for the Town of Hideout. The planning commission shall consist of three (3) members, to be appointed by the mayor, with the advice and consent of the council. Initially, the members shall be appointed with one (1) member having their term expire January 1, 2010, and two (2) members having their terms expire January 1, 2012. Thereafter, every even numbered year, in the month of January, the mayor, with the advice and consent of the council, shall appoint members of said commission, for a term of four (4) years. The terms shall be staggered in such a manner that no more than two (2) terms expire in a given year. All terms expire on January 1 in the applicable year.

B. Term: Each member of the planning commission shall serve until the expiration of the term for which they are appointed or until their successor is appointed and qualified. At the expiration of each term, new appointments shall be promptly made in the same manner as original appointment as provided in this section.

C. Vacancy: Any vacancy occurring during an unexpired term, due to death, resignation or removal from office shall be promptly filled by the mayor, with the advice and consent of the council, for the unexpired portion of the term.

D. Alternates: Two (2) alternate members of the planning commission may be selected in the same manner and for the same length of time as a regular member. The alternate member may sit in for a full time member of the commission, at the request of the

chairperson, when the full time member is not able to be in attendance. The alternate may only vote at such time as they are acting for the full time member.

#### **2.01.102: QUALIFICATIONS:**

Members of the planning commission must qualify by taking, subscribing and filing with the clerk the oath of office required by section 10, article IV of the constitution of Utah.

#### **2.01.103: REMOVAL FROM COMMISSION:**

The council may remove any member of the planning commission, with or without cause, upon written notice.

#### **2.01.104: COMPENSATION:**

The council may fix per diem compensation for the members of the planning commission, based upon necessary and reasonable expenses and on meetings actually attended

#### **2.01.105: POWERS AND DUTIES:**

The planning commission shall have such powers and functions and shall perform such duties as prescribed by Utah Code, Title 10, Chapter 9a, and any further amendments of or supplements to which may hereafter be enacted, and shall also have such powers and functions and perform such other duties in connection with the planning and zoning of the town as may hereafter be prescribed by any ordinance.

#### **2.01.106: COOPERATION WITH COUNTY:**

The planning commission, in the exercise of its powers and the discharge of its duties, shall seek to cooperate with any planning commission or other official body of the county having similar powers and duties.

### **2.01.107: RECORD OF PROCEEDINGS:**

The planning commission shall keep a public record of its proceedings, which shall be filed in the office of the clerk.

### **2.01.108: RULES AND REGULATIONS:**

The planning commission shall submit to the council rules and regulations subject to the provisions of the laws of the state and the planning and zoning ordinances of the town, to provide for the regulation of its procedure and the conduct of its duties, and may submit amendments to such rules from time to time to the council.

# **TITLE 3**

## **BUSINESS LICENSES AND REGULATIONS**

Subject	Chapter
Definitions	1
Business Licenses Generally	2
Home Occupation Business Licenses	3
Alcoholic Beverages	4
Charitable Solicitations	5
Offensive Business and Facilities	6
Residential Solicitation	7
Sexually Oriented Businesses	8
Reserved	9
Special Event Permits	10

# **CHAPTER 1**

## **DEFINITIONS**

Section

3.01.101: DEFINITIONS

### **3.01.101: DEFINITIONS:**

As used in this title:

**BUSINESS**

Means and includes all activities engaged in within this municipality carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business", unless otherwise specifically provided.

**EACH SEPARATE  
PLACE OF BUSINESS**

Each separate establishment or place of operation, whether or not operating under the same name, within the municipality, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the municipality.

**EMPLOYEE**

The operator, owner or manager of a place of business and any persons employed by such person in the operation of such place of business in any capacity and also any salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.

**ENGAGING IN  
BUSINESS**

Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment

**PLACE OF BUSINESS**

Each separate location maintained or operated by the licensee within this municipality from which business activity is conducted or transacted.

## WHOLESALE

A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

## WHOLESALE

A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

## **CHAPTER 2**

### **BUSINESS LICENSES GENERALLY**

#### **Section**

- 3.02.101: BUSINESS LICENSE REQUIRED
- 3.02.102: EXCEPTIONS TO LICENSE
- 3.02.103: RECIPROCAL RECOGNITION OF LICENSE
- 3.02.104: LICENSE ASSESSOR AND COLLECTOR
- 3.02.105: APPLICATIONS FOR LICENSE
- 3.02.106: ISSUANCE OF BUSINESS LICENSE
- 3.02.107: BRANCH ESTABLISHMENTS; SEPARATE LICENSE REQUIRED
- 3.02.108: JOINT LICENSE ALLOWED WHEN
- 3.02.109: DISPLAY
- 3.02.110: TRANSFER OF LICENSE PROHIBITED
- 3.02.111: REVOCATION OR DENIAL OF BUSINESS LICENSE
- 3.02.112: PAYMENT DATES
- 3.02.113: PENALTY FOR LATE PAYMENT
- 3.02.114: ANNUAL FEE LEVIED; SCHEDULE
- 3.02.115: FEE NOT TO CONSTITUTE UNDUE ON INTERSTATE COMMERCE

#### **3.02.101: BUSINESS LICENSE REQUIRED:**

It shall be a class B misdemeanor for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin operated machine without first receiving the class or type of license required by the municipality.

#### **3.02.102: EXCEPTIONS TO LICENSE:**

(1) No license requirement shall be imposed under section 3.02.101 of this chapter on any person engaged in business for a nonprofit purpose which is tax exempt under the laws of the United States and the state, nor shall any license requirement be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; nor shall any license requirement be imposed upon any person not maintaining a place of business within this municipality.

(2) The license assessor and collector may, with approval of the governing body, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper in effecting the exemption provided for in subsection (1) of this section.

### **3.02.103: RECIPROCAL RECOGNITION OF LICENSES:**

(1) No license shall be required for operation of any vehicle or equipment in this municipality when:

- (a) Such vehicle is merely passing through the municipality;
- (b) Such vehicle is used exclusively in intercity or interstate commerce.

(2) No license shall be required, by this chapter and chapter 4 of this title, of any person whose only business activity in this municipality is the mere delivery in the municipality of property sold by him at a regular place of business maintained by him outside the municipality where:

- (a) Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and
- (b) The authority licensing such business, grants to licensees of this municipality making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section; and
- (c) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of this municipality for compliance with health or sanitary standards prescribed by this municipality; and
- (d) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

(3) The Town recorder shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.

### **3.02.104: LICENSE ASSESSOR AND COLLECTOR:**

The Town recorder is designated and appointed as ex officio assessor of license fees for this municipality. On receipt of any application for a license, the Town recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by ordinance. He shall enforce all provisions of this chapter, and shall cause to be filed complaints against all persons violating any of the provisions of this chapter.



### **3.02.105: APPLICATIONS FOR LICENSE:**

(1) All applications for license shall include:

- (a) The name, social security number, date of birth, and home address of the person applying for the license;
- (b) The registered name of the business, if applicable;
- (c) The federal tax number of the corporation, if applicable;
- (d) The type of business to be engaged in;
- (e) The location of the place of business;
- (f) A state tax number, if applicable;
- (g) A state contractor's number, if applicable;
- (h) Proof that the business is state licensed or registered, if applicable;
- (i) A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true; and
- (j) The information regarding any other business licenses held in any other jurisdiction.
- (k) Authorize the Town to conduct a background check on the applicant and other business principals

(2) In the event that the license application relates to a coin operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

### **3.02.106: ISSUANCE OF BUSINESS LICENSE:**

(1) An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.

(2) The application shall be completed and fees paid.

(3) Copies of the application shall be submitted to the appropriate Town staff for their review.

(4) After staff review and approval of the completed application, a business license certificate shall be prepared.

(5) The applicant shall ensure that the business location is within a zoning district that allows said land use.

### **3.02.107: BRANCH ESTABLISHMENTS; SEPARATE LICENSE REQUIRED:**

A separate license must be obtained for each separate place of business in the municipality and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license; provided, that warehouses and distributing places used in connection with or incident to a business licensed under this part shall not be deemed to be separate places of business or branch establishments.

### **3.02.108: JOINT LICENSE ALLOWED WHEN:**

Whenever any person is engaged in two (2) or more businesses at the same location within the municipality, such person shall not be required to obtain separate licenses for conducting each of such businesses, but shall be issued one license which shall specify on its face all such businesses. The license fee to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license fee for such business.

### **3.02.109: DISPLAY:**

(1) Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

(2) In the event the license is for a coin operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

### **3.02.110: TRANSFER OF LICENSE PROHIBITED:**

No license granted or issued under any ordinance of this municipality shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named, unless by permission of the governing body.

### **3.02.111: REVOCATION OR DENIAL OF BUSINESS LICENSE:**

(1) Any license issued pursuant to the provisions of this code or of any ordinance of this municipality may be revoked and any application denied by the planning commission because of:

- (a) The failure of the licensee or applicant to comply with the conditions and requirement of this code or any ordinance of the municipality.
- (b) Unlawful activities conducted or permitted on the premises where the business is conducted.
- (c) The license was obtained by fraud or deceit.

(2) The Town shall notify the applicant of the denial or revocation of a license and the reason for such denial or revocation.

(3) A license denial or revocation may be appealed to the Town council by filing written notice of appeal with the Town recorder within ten (10) days of the notice of denial or revocation. The Town council shall hear the appeal within thirty (30) days of the notice of appeal.

### **3.02.112: PAYMENT DATES:**

All business licenses are for a one year period and the fees therefor shall be due and payable as follows, except as may be otherwise provided in the applicable ordinance:

(1) Annual fees shall be payable before the expiration of the license in advance.

(2) Annual fees shall be due prior to the expiration of the license and shall become delinquent if not paid within (30) days of the license expiration date.

### **3.02.113: PENALTY FOR LATE PAYMENT:**

If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid in full.

### **3.02.114: ANNUAL FEES LEVIED; SCHEDULE:**

There is imposed and levied a fee of forty five dollars (\$45.00) on the business, location, trade, calling or profession of every person engaged in a business within this municipality.

### **3.02.115: FEE NOT TO CONSTITUTE UNDUE BURDEN ON INTERSTATE COMMERCE:**

None of the license fees provided for by section 3.02.114 of this chapter shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the fees so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fees. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which he shall determine whether the fees fixed by section 3.02.114 of this chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the governing body a license fees for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the governing body is satisfied that such license fees is the amount that the applicant should pay, it shall fix the license fees in such amount. If the regular license fee has already been paid, the governing body shall order a refund of the amount over and above the fees fixed by the governing body. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

## **CHAPTER 3**

### **HOME OCCUPATION BUSINESS LICENSES**

Section:

- 3.03.101: HOME OCCUPATION BUSINESS LICENSE REQUIRED
- 3.03.102: PURPOSE AND INTENT OF CHAPTER
- 3.03.103: DEFINITIONS
- 3.03.104: APPROVAL REQUIRED
- 3.03.105: APPLICATION FOR HOME OCCUPATION BUSINESS LICENSE
- 3.03.106: PROCEDURE
- 3.03.107: CONDITIONS
- 3.03.108: FEES
- 3.03.109: COURTESY NOTICE TO NEIGHBORS
- 3.03.110: STATE SALES TAX LICENSE
- 3.03.111: RENEWAL
- 3.03.112: REVOCATION OF DENIAL OF HOME OCCUPATION LICENSE
- 3.03.113: APPEAL
- 3.03.114: CHANGE TO CHAPTER

#### **3.03.101: HOME OCCUPATION BUSINESS LICENSE REQUIRED:**

It shall be a class B misdemeanor for any person to utilize any portion of their residence as a place of business without first receiving a home occupation business license as required by the Town.

#### **3.03.102: PURPOSE AND INTENT OF CHAPTER:**

The purpose and intent of this chapter is to allow Town residents, who comply with the requirements of this chapter and are issued a license, to utilize a portion of their residential premises as a place of business. Such business shall only be operated by residents in the home, and shall not be of such nature or scope that the operation of the business disrupts neighbors or detracts from the residential character of the neighborhood in which it is located.

#### **3.03.103: DEFINITIONS:**

As used in this chapter:

IN-HOME OFFICE:

The use of a portion of the residential premises for office use only, including record storage, filing, invoicing, accounting, billing, order taking, making

RESIDENCE:

appointments and telephone contacts.  
The building on the residential premises that is the home or dwelling unit that has been designed for use as the living and sleeping place for its occupants as distinguished from a detached garage or other accessory building.

RESIDENTIAL PREMISES:

The parcel of land and structures on it that is located in an area of the Town, which is zoned a residential district as distinguished from a commercial or industrial district. Residential zoning includes, but is not limited to, residential estates, single-family residential and multiple-family residential districts.

### **3.03.104: APPROVAL REQUIRED:**

To assure compliance with the provisions of this chapter and to protect the character of residential neighborhoods in the Town, a home occupation business license shall be approved by the planning commission before a structure on the residential premises may be used for business purposes. Application for the home occupation business license shall be obtained from the Town offices.

### **3.03.105: APPLICATION FOR HOME OCCUPATION BUSINESS LICENSE:**

All applications for license shall include:

- (1) The name, social security number, date of birth and home address of the person applying for the license;
- (2) The registered name of the business, if applicable;
- (3) The federal tax number of the corporation, if applicable;
- (4) The type of business to be engaged in;
- (5) The location of the place of business;
- (6) A state tax number, if applicable;
- (7) A state contractor's number, if applicable;

- (8) Proof that the business is state licensed or registered, if applicable;
- (9) A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true; and
- (10) Other information that may be required on a case by case basis.

### **3.03.106: PROCEDURE:**

#### **(1) In-Home Offices:**

- (a) Town staff may, upon application, issue a home occupation business license, which shall state the in-home office use permitted and any limitations imposed thereon.
- (b) The license shall not be issued until the applicant represents that the applied for use will not violate covenants, conditions and restrictions or other deed restrictions affecting the use of the property involved.
- (c) The license shall not be issued unless the Town staff is satisfied that the applicant will meet all of the conditions listed below, and that the applicant has agreed in writing to comply with all said conditions.

#### **(2) Home Occupations Other Than In-Home Offices:**

- (a) The Town planning commission may, upon application, issue a home occupation business license, which shall state the home occupation business permitted, the conditions attached thereto, and any time limitations imposed thereon.
- (b) The license shall not be issued until the applicant represents that the applied for use will not violate covenants, conditions and restrictions or other deed restrictions affecting the use of the property involved.
- (c) The license shall not be issued unless the planning commission is satisfied that the applicant will meet all of the conditions listed in section 3.03.107 of this chapter, and that the applicant has agreed in writing to comply with all said conditions.
- (d) If the proposed home occupation business involves children in any way, then prior to an application being put on the planning commission agenda for approval, a criminal background check shall be obtained on the applicant and all other persons who would be involved with the home occupation business or who would be at the home occupation business location when children are present during business hours.

**3.03.107: EACH AND EVERY ONE OF THE FOLLOWING  
CONDITIONS MUST BE OBSERVED AT ALL TIMES BY THE  
HOLDER OF A HOME OCCUPATION BUSINESS LICENSE:**

(1) The home occupation business shall not alter the residential character of the premises by reason of activity, color, design, materials, storage, construction, lighting, sounds, noises, vibrations, dust, odors, noxious fumes, etc., nor shall it unreasonably disturb the peace and quiet of an individual and/or the residential neighborhood, nor interfere with area radio or television reception.

(2) No persons other than residents in the home shall work at the residential premises of the home occupation business. No independent contractors shall come upon the residential premises to conduct the work of the home occupation business.

(3) Outside storage of equipment and/or materials associated with the home occupation business shall not be permitted.

(4) Only two (2) vehicles may be used in association with the home occupation business and they shall be capable of being parked in the garage. Any vehicles used for the home occupation business shall be limited to a maximum size of one ton gross vehicle weight.

(5) The number of square feet used for conducting the home occupation business, whether in the residence or other permitted structure, shall not exceed twenty five percent (25%) of the total area of the home, plus attached garage, not to exceed five hundred (500) square feet.

(6) The home occupation business may be conducted in a garage attached to the residence subject to the following:

(a) The garage may not be altered in any way that prevents the parking of vehicles within.

(b) Sufficient off street parking must be available for the vehicles displaced by using the garage to conduct the home occupation business.

(7) No business signs are to be displayed on the residential premises in connection with the home occupation business.

(8) The home occupation business shall not create noise in excess of that which is customary to the immediate neighborhood.

(9) The home occupation business shall not generate pedestrian or vehicular traffic in excess of that customarily associated with the residential neighborhood in which the use is located.



(10) There shall be complete conformity with fire, building, plumbing, electrical and health codes, and with all state and Town laws and ordinances. The residential premises shall be subject to inspection by the Town for compliance purposes.

(11) The home occupation business shall not cause a demand for municipal or utility services, or community facilities in excess of those usually and customarily provided for residential uses.

(12) There shall be complete conformity with any special condition established and made of record in the home occupation business license by the planning commission, as it deems necessary to carry out the intent of this chapter.

(13) Retail operations shall not be allowed as a home occupation.

### **3.03.110: FEES:**

Fees will be charged in accordance with the Town consolidated fee schedule.

### **3.03.109: COURTESY NOTICE TO NEIGHBORS:**

Along with the completed application, the applicant shall provide envelopes bearing first class postage that are addressed to all property owners, as shown on the county tax rolls on the date of application, within three hundred feet (300') from each of the exterior boundaries of the subject residential property. Town staff shall mail notification of the home occupation license application to the neighbors specified. The intent of the courtesy notice to neighbors is to inform neighbors of activity within their neighborhood and should not be construed as a legal notice.

### **3.03.110: SALES TAX LICENSE:**

If required by the state, a state license will be required with the Town listed as a business location.

### **3.03.111: RENEWAL:**

All home occupation business licenses shall be valid for the period of time specified on the license application, and shall be renewed annually, provided there have been no reported violations or detrimental characteristics which may, in the opinion of the planning commission, require revocation of the home occupation business license and termination of said home occupation business.

### **3.03.112: REVOCATION OR DENIAL OF HOME OCCUPATION LICENSE:**

(1) Any license issued pursuant to the provisions of this chapter may be revoked and any application denied by the planning commission because of:

- (a) The failure of the licensee or applicant to comply with the conditions and requirements of this chapter or any ordinance of the municipality or any conditions imposed by the Town;
- (b) Unlawful activities conducted or permitted on the premises where the business is conducted; or
- (c) The license was obtained by fraud or deceit.

(2) The Town shall notify the applicant of the denial or revocation of a license and the reason for such denial or revocation.

### **3.03.113: APPEAL:**

A home occupation business license denial or revocation may be appealed to the Town council by filing written notice of appeal with the Town recorder within ten (10) days of the notice of denial or revocation. The Town council shall hear the appeal within thirty (30) days of the notice of appeal.

### **3.03.112: CHANGE TO CHAPTER:**

Any change to this chapter must be submitted for comment to the planning commission.

## **CHAPTER 4**

### **ALCOHOLIC BEVERAGES**

#### Section

#### **PART 1: GENERAL PROVISIONS**

- 3.04.101: GOVERNING LAWS
- 3.04.102: DEFINITIONS
- 3.04.103: LICENSE REQUIRED
- 3.04.104: CLASSIFICATION OF LICENSES AND PERMITS
- 3.04.105: TAVERNS, PACKAGE AGENCIES AND STATE STORES  
PROHIBITED IN TOWN
- 3.04.106: LICENSE DURATION; FEES
- 3.04.107: LICENSEE QUALIFICATIONS
- 3.04.108: RESTRICTIONS ON LOCATION, NUMBER OF LICENSES AND  
ESTABLISHMENTS
- 3.04.109: GENERAL APPLICATION REQUIREMENTS
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**PART 2: OFF PREMISES BEER RETAIL LICENSE, GENERAL FOOD STORES  
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3.04.201: OFF PREMISES BEER RETAIL LICENSE

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**PART 4: RESTAURANT LIQUOR LICENSE**

3.04.401: RESTAURANT LIQUOR LICENSE

**PART 5: LIMITED RESTAURANT LIQUOR LICENSE**

3.04.501: LIMITED RESTAURANT LIQUOR LICENSE

**PART 6: ON PREMISES BANQUET LICENSE**

3.04.601: ON PREMISES BANQUET LICENSE

**PART 7: PRIVATE CLUB LIQUOR LICENSE**

3.04.701: PRIVATE CLUB LIQUOR LICENSE

**PART 8: SINGLE EVENT PERMIT**

3.04.801: SINGLE EVENT PERMIT

**PART 9: TEMPORARY SPECIAL EVENT PERMIT**

3.04.901: TEMPORARY SPECIAL EVENT PERMIT

## **PART 1: GENERAL PROVISIONS**

### **3.04.101: GOVERNING LAWS:**

All sales of alcoholic beverages and alcohol products within the town shall be governed by the Utah Alcoholic Beverage Control Act ("the Act"), Utah Code Annotated title 32A, as amended. To the extent authorized by the Act, this chapter and applicable provisions of the town zoning ordinance shall also regulate the sale, distribution and consumption of alcoholic beverages and alcoholic products within the town.

### **3.04.102: DEFINITIONS:**

The words and phrases used in this chapter shall have the meanings specified in the Act, unless a different meaning is clearly evident.

### **3.04.103: LICENSE REQUIRED:**

(1) License Required: It shall be unlawful for any person to engage in the business of selling or serving beer or liquor without first having procured a license therefor from the town and having paid the required license fee.

(2) Sales After Revocation: It shall be unlawful for any person to sell or serve beer or liquor after the revocation of the license issued pursuant to this chapter.

(3) Separate License; Display: A separate license shall be required for each place of sale, and the license shall at all times be conspicuously displayed. All licensees shall comply with the Act and the regulations of the Utah Alcoholic Beverage Control Commission ("Commission").

(4) License Not Transferable: Licenses issued pursuant to this chapter shall not be transferable from the original licensee to any other person or entity, including partnerships, limited liability companies or corporations.

### **3.04.104: CLASSIFICATION OF LICENSES AND PERMITS:**

(1) Off Premises Beer Retail License: An off premises beer retail license shall entitle the licensee to sell beer on the premises described therein in original containers not to exceed one quart capacity for consumption off the premises. Eighty percent (80%) of the gross sales receipts must come from the sale of items other than beer. Businesses that may be allowed to have an off premises beer retail license are general food stores and convenience stores.

(2) On Premises Beer Retail License: An on premises beer retail license shall entitle the licensee to sell beer for consumption on the licensed premises only in conjunction with a restaurant in which hot food sales constitute no less than seventy percent (70%) of the gross monetary receipts of the licensee's business.

(3) Public Liquor Licenses: Only the following public liquor licenses shall be allowed within the town:

(a) Restaurant Liquor License: A restaurant liquor license shall entitle the licensee to sell, serve and allow the consumption of liquor on its premises in conjunction with a restaurant liquor license issued by the commission.

(b) Limited Restaurant License: A limited restaurant license shall entitle the licensee to sell, serve and allow the consumption of only beer, heavy beer, and wine on its premises, but not spirituous liquor, in conjunction with a limited restaurant license issued by the commission.

(c) On Premises Banquet License: An on premises banquet license shall entitle the licensee to sell, serve and allow the consumption of alcoholic beverages in connection with the licensee's banquet and room service activities. This license shall be issued in connection with an on premises banquet license issued by the commission.

(d) Private Club Liquor License: A private club liquor license shall entitle the licensee to sell, serve and allow the consumption of alcoholic beverages in connection with the licensee's private club. This license shall be issued in connection with a private club liquor license issued by the commission.

(4) Single Event Permit: A single event permit shall entitle a qualified entity conducting a convention, civic or community enterprise to sell, serve and allow consumption of liquor for a period not to exceed one hundred twenty (120) consecutive hours.

(5) Temporary Special Event Beer Permit: A temporary special event beer permit shall entitle a person to sell beer for on premises consumption at a temporary special event that does not last longer than thirty (30) days.

### **3.04.105: TAVERNS, PACKAGE AGENCIES AND STATE STORES PROHIBITED IN TOWN:**

The licensing and operation of a "tavern", "package agency" or "state store", as defined in the Act, is strictly prohibited within the town.

### **3.04.106: LICENSE DURATION; FEES:**

(1) Duration: All licenses shall expire on one year from the date of issue, unless revoked prior thereto. All licensees shall immediately notify the town recorder if their state issued license is denied, suspended or revoked for any reason. All renewal applications must attach a copy of a valid state license.

(2) Fee: In addition to any other business license fee which may be required, there is hereby imposed on the business location a fee for the type of beer or liquor license or permit required. Fees shall be established by the town council from time to time by resolution. New and renewal applications provided for in this chapter shall be accompanied by the fees established. If the license application is denied, fifty percent (50%) of the license fee will be retained by the town to pay the costs of processing the application. If a license that has been granted is later revoked by the town, the license fee paid by the licensee shall be forfeited to the town.

### **3.04.107: LICENSEE QUALIFICATIONS:**

(1) No alcoholic beverage control license may be granted under this chapter to any person who has been convicted of:

- (a) A felony under any federal or state law;
- (b) Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, brewing, warehousing, adulteration or transportation of alcoholic beverages;
- (c) Any crime involving moral turpitude; or
- (d) On two (2) or more occasions within the five (5) years before the day on which the license is granted, driving while under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(2) In the case of a partnership, corporation or limited liability company, the proscription under subsection (1) of this section applies if any of the following have been convicted of any of the offenses described in subsection (1) of this section:

- (a) A partner;
- (b) A managing agent;
- (c) A manager;
- (d) An officer;

(e) A director;

(f) A stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation; or

(g) A member who owns at least twenty percent (20%) of the applicant limited liability company.

(3) The proscription under subsection (1) of this section applies if any person employed to act in a supervisory or managerial capacity for the applicant has been convicted of an offense described in subsection (1) of this section.

(4) The town may immediately suspend or revoke an alcoholic beverage control license issued under this chapter if, after the day on which the license is granted, a person described in subsection (1), (2) or (3) of this section:

(a) Is found to have been convicted of any offense described in subsection (1) of this section; or

(b) On or after the day on which the license is granted:

(i) Is convicted of an offense described in subsection (1)(a), (1)(b) or (1)(c) of this section; or

(ii) Is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, and was previously convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug, within five (5) years.

(5) The town may immediately suspend an alcoholic beverage control license issued under this chapter for the period during which the criminal matter is being adjudicated if a person described in subsection (1), (2) or (3) of this section:

(a) Is arrested on a charge for an offense described in subsection (1)(a), (1)(b) or (1)(c) of this section; or

(b) Is arrested on a charge of driving under the influence of alcohol, any drug or the combined influence of alcohol and any drug, and was previously convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five (5) years.

(6) No alcoholic beverage control license may be granted under this chapter to any person who has had any type of license, agency or permit issued under this chapter revoked within the last three (3) years. For an applicant that is a partnership, corporation or limited liability company, no alcoholic beverage control license may be granted under this chapter if any partner, managing agent, manager, officer, director, stockholder who



holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation, or member who owns at least twenty percent (20%) of the applicant limited liability company is or was:

- (a) A partner or managing agent of any partnership that had any type of license, agency or permit issued under this chapter revoked within the last three (3) years;
- (b) A managing agent, officer, director or stockholder who holds or held at least twenty percent (20%) of the total issued and outstanding stock of any corporation that had any type of license, agency or permit issued under this chapter revoked within the last three (3) years; or
- (c) A manager or member who owns or owned at least twenty percent (20%) of any limited liability company that had any type of license, agency or permit issued under this chapter revoked within the last three (3) years.

(7) A minor may not be granted an alcoholic beverage control license under this chapter; nor may an alcoholic beverage control license be granted to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:

- (a) A partner or managing agent of the applicant partnership;
- (b) A managing agent, officer, director or stockholder who holds at least twenty percent (20%) of the total issued and outstanding stock of the applicant corporation; or
- (c) A manager or member who owns at least twenty percent (20%) of the applicant limited liability company.

(8) If any person to whom a license has been issued under this chapter no longer possesses the qualifications required by this chapter for obtaining that license, the town may suspend or revoke that license.

(9) For purposes of this title “drunk driving” or “driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug” shall include the offense of impaired driving.

### **3.04.108: RESTRICTIONS ON LOCATION, NUMBER OF LICENSES AND ESTABLISHMENTS:**

(1) Location Restrictions: No alcoholic beverage control license shall be issued to any person where the premises would be located within six hundred feet (600') of a school, church, library, playground or park, as measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic, or where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property

boundary of a public or private school, church, library, playground or park. The premises of a licensee may not be established within two hundred feet (200') of any school, church, library, playground or park, measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the school, church, library, playground or park. Nothing herein prevents the town council from considering the proximity of any educational, religious and recreational facility or any other relevant factor in reaching a decision on a proposed location.

(2) Exceptions To Location Restrictions: The restrictions contained in subsection (1) of this section govern the issuance of all alcoholic beverage control licenses under this chapter, unless the town council determines that compliance with the distance requirements would result in peculiar and exceptional practical difficulties or exceptional and undue hardships to the applicant, that alternative locations for establishing the requested type of alcoholic beverage control license within the town are limited, and that establishing a license would not be detrimental to the public health, peace, safety and welfare of the town. In that event, the town council may, after giving full consideration to all attending circumstances and after compliance with public notice and public hearing requirements as specified in section 3.04.111 of this chapter, authorize a variance from the distance requirements to relieve the difficulties or hardships, if the variance may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter.

(3) Number Of Licenses: The town council reserves the right at its sole discretion to restrict the number of new alcoholic beverage control licenses and the locations of establishments licensed under this chapter within the corporate limits of the town.

(4) Separate Licenses: Any license issued under this chapter shall be able to sell alcoholic beverages or otherwise conduct permitted activities only at the specific place and in the specific manner provided in such license. A separate license shall be obtained for each license classification and for each different location for which the applicant desires to carry on activities regulated by this chapter.

### **3.04.109: GENERAL APPLICATION REQUIREMENTS:**

(1) Contents: All applications for alcoholic beverage control licenses shall be made pursuant to this section regardless of whether the application is for a new license, renewal, or due to a change of ownership, a change of lessee of an existing licensed premises, or a change of location of an existing licensed premises. All applications authorized by this chapter shall be made on forms provided by the town and shall conform with this chapter, other town ordinances, the laws of the state, including the Act and regulations issued by the Commission. The application shall include, without limitation, the following:

- (a) Name, current address and telephone number of the applicant;

- (b) Applicant's age and date of birth;
- (c) Applicant's driver's license number and issuing state;
- (d) Applicant's social security number;
- (e) Applicant's federal tax identification number;
- (f) Applicant's state sales tax identification number;
- (g) Copy of applicant's current business license;
- (h) Citizenship of the applicant;
- (i) All addresses of the applicant for the previous five (5) years, including any temporary domiciles;
- (j) The type of alcoholic beverage control license desired;
- (k) Location of the premises or place of business to be licensed;
- (l) A statement verifying that the applicant meets all of the requirements of this chapter, town ordinances, the Act and regulations issued by the commission;
- (m) A statement verifying whether or not the applicant has ever forfeited bail or been convicted for drunk driving or any felony or a violation of any law or ordinance relating to alcoholic beverages, or any crime involving moral turpitude, or had any license or permit involving alcoholic beverages revoked within the last five (5) years;
- (n) A signed statement that the applicant has read, understands and will comply with all laws, ordinances, rules and regulations that are currently in force or that may be amended from time to time by the state, Wasatch County Health Department and the town relating to alcoholic beverages;
- (o) A signed consent authorizing any authorized representative of the town or law enforcement officer to investigate the applicant's criminal background;
- (p) A signed consent form granting any authorized representative of the town or law enforcement officer the unrestricted right to enter the licensed premises during business hours;
- (q) A sworn statement signed by the applicant that all the facts included in the application are true;
- (r) Any other information, documents and evidence as the town may require to allow a complete evaluation of the application.

(2) False Statements: It shall be unlawful to make any false statement or misrepresentation on the alcoholic beverage control license application. Any false statement or misrepresentation shall be grounds for denial, suspension or revocation of the license.

(3) Business Entities: If the applicant is a partnership, limited liability company, association or corporation, the applicant shall provide the above information with respect to any shareholder owning more than twenty percent (20%) of the business entity and each partner, limited liability company member, association member, corporate officer or director, although the application need only be signed by a single partner, manager, member or officer. If the establishment for which the applicant seeks a license will be managed or operated by a person other than the applicant, the town shall also require that the agent, manager or operator submit an application for the purpose of a background investigation, and, if the manager or operator does not meet the requirements of this chapter, the town may deny the applicant's request for a license.

(4) Fingerprinting And Photographs: Each applicant shall, at the time of filing his license application, present himself to the police chief, or his designee, to be fingerprinted and photographed. Such fingerprints and photographs shall be clearly marked as having been taken in connection with the application.

(5) Vicinity Map: Each applicant shall provide a map showing the distance from the premises to the nearest school, church, library, playground or park.

(6) Site Plan And Building Floor Plan: Each applicant shall provide with his initial application a site plan and building floor plan, indicating all public places, security measures, plans for public entrances and exits, locations where the applicant proposes to keep, store and sell alcoholic beverages, and public and private ingress and egress to the premises.

### **3.04.110: APPLICATION REVIEW:**

In addition to any other review of applications which may be requested by the town council or the town staff, each application for license to be issued under the provisions of this chapter shall be referred to the police chief, fire chief, building official and to the Wasatch County health department for inspection and report as follows:

(1) The applicable law enforcement entity shall make a report to the town council of the general reputation and character of the licensee, whether he is over the age of twenty one (21) years, whether he is a citizen of the United States, whether he has forfeited bail on a charge or has been convicted of a felony or crime involving driving under the influence of alcohol, moral turpitude, and whether he has violated any state or federal law or local ordinance regarding the sale, manufacture, distribution, adulteration or transportation of alcoholic beverages. If the applicant is a partnership, limited liability company,

association or corporation, each partner, association member, agent, manager, corporate officer, director or shareholder owning more than twenty percent (20%) of the entity shall be subject to all the foregoing scrutiny and restrictions as if such individual were the applicant. In addition, the applicable law enforcement entity shall report as to: the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant or by any other person or by the applicant at any other place; whether said place is or has been conducted in a lawful, quiet or orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school, church, library, playground or park. The applicable law enforcement entity shall also add to such report his recommendation as to whether or not the application should be granted.

(2) The application shall also be referred and delivered to the applicable fire department for inspection and report to the town council. The report to the town council shall state whether the proposed licensed premises complies with all applicable laws, ordinances and regulations relating to public safety in the event of fire or panic, and whether the same is reasonably safe for its intended use.

(3) The application shall also be referred and delivered to the building official for inspection and report. The report shall state whether the proposed licensed premises complies with all applicable building laws, ordinances, codes and regulations relating to the construction of the building for its specified use.

(4) Upon receipt of an application for a license to be issued under the provisions of this chapter, the health official of the Wasatch County Health Department shall inspect, or shall cause to be inspected, all premises to be licensed to assure compliance with the sanitary and health laws and rules and regulations of the state, Wasatch County Health Department and the town in the preparation, storage, distribution and sale of alcoholic beverages. If the health official determines that the premises fulfill all health and sanitary requirements, the health official shall issue or cause to be issued an appropriate sanitary permit to the licensee. A copy of the permit shall be attached to the application for license.

### **3.04.111: PUBLIC HEARING:**

Upon receipt of the report of the applicable law enforcement entity, applicable fire department, building official and Wasatch County Health Department, the town council, upon recommendation from the planning commission, may consider the application for a license under this chapter. No application will be considered by the planning commission or town council until a public hearing has been held by both the planning commission and town council. All property owners within six hundred feet (600') of the property line of the proposed licensed business shall have been notified in writing at least fourteen (14) days prior to the hearing. The applicant: 1) shall be responsible for the accuracy and completeness of the list of property owners; and 2) will provide the mailing labels with

the names and addresses of property owners within six hundred feet (600'). Notice of the public hearing shall be published at least fourteen (14) days in advance of the public hearing in a newspaper of general circulation. As a minimum, the advertisement shall state the date, time, location and reason for the public hearing. For purposes of this section, notice shall be considered given on the date it is deposited in the U.S. mail.

### **3.04.112: ISSUANCE OF LICENSE:**

After receiving a recommendation from the planning commission and holding a public hearing, the town council has the sole discretion to grant, deny or to grant with conditions an alcoholic beverage control license under this chapter. The town council may issue a license only after considering the following as a minimum: type of business operation, menu items offered and emphasized, hours of operation; location; square footage, parking availability, physical characteristics, building capacity, seating capacity and condition of the proposed licensed premises; the character, background, management experience and qualifications of the applicant; the nature and class of the proposed license; the proximity to and density of other state stores, package agencies and licensed outlets; the demographics and population served; the extent of and proximity to any school, church, library, playground or park; and public input with respect to issuance of the license; and after finding that the public convenience requires and the best interests of the community will be served by the issuance of the license.

### **3.04.113: LICENSE IS REVOCABLE PRIVILEGE AND CONFERS NO VESTED RIGHTS:**

The issuance of a license pursuant to this chapter shall grant only a revocable privilege as provided hereunder and under the laws of the state and shall not confer any vested rights of any kind or nature upon a licensee. If the license application is denied by the town council, no new application shall be made for the premises until after the expiration of one year following the denial of the initial application.

### **3.04.114: TERM OF LICENSE:**

All alcoholic beverage control licenses, no matter when issued, shall expire one year from the date of issue.

### **3.04.115: LICENSE TRANSFER PROHIBITED:**

No license issued under this chapter shall be assigned, transferred, leased, subleased, sold or otherwise transferred.

### **3.04.116: DUTY TO REPORT CHANGE OF OWNERSHIP:**

If, during the term of the license year, after the license has been granted hereunder, there shall be a change in the officers, directors, managers or agents of any licensed partnership, limited liability company or corporation, the licensee shall forthwith report any such changes in personnel in writing to the town license officer.

### **3.04.117: MONETARY VALUE OF LICENSE:**

A person, having been granted an alcoholic beverage control license may not sell, exchange, barter, give, or attempt in any way to dispose of the license, whether for monetary gain or not. An alcoholic beverage control license has no monetary value for the purpose of any type of disposition.

### **3.04.118: DISPLAY OF LICENSE CERTIFICATES:**

Every license certificate issued by the town or the department of alcoholic beverage control pursuant to the Act or this chapter shall be posted by the licensee in a conspicuous place upon the wall of the building, room, or office of the place of business next to the business license certificate so that the same be easily seen. When the certificate of license has expired or been suspended or revoked, it shall be removed. No license certificate or business license which is not in force and effect shall be permitted to remain posted within the place of business.

### **3.04.119: RENEWAL OF LICENSES:**

Each year, licensees shall renew their alcoholic beverage control licenses by completing an application on forms provided by the town for a license renewal. The application shall be signed under penalty of law that all information contained therein is true and returning it along with proper fees to the town within the time frame set forth in section 3.04.120 of this chapter. Renewal applications shall be submitted to the police department, fire department and building department to ascertain whether the licensee still meets the necessary qualifications. Upon receipt of the application, fees and police department, fire department and building department approval, the town shall be authorized to prepare and issue a certificate of license as provided in this chapter.

### **3.04.120: LICENSE FEES, PAYMENT DATES AND PENALTIES:**

Alcoholic beverage control application fees and license fees shall be adopted by resolution by the town council. New license fees shall be due and payable upon making application to the town. No alcoholic beverage control license application shall be processed until all required fees are paid. Alcoholic beverage control license fees for

license renewals shall be due and payable on or before the expiration thereof. If the fee is not paid within (30) days thereof then the business shall be considered to be operating without a license in violation of section 3.04.103 of this chapter and subject to criminal prosecution for every day of operation after that day. Licenses who have not paid all fees and penalties and completed renewal prior to the expiration of the (30) day period, pursuant to this chapter, shall not be granted a new license for one year.

### **3.04.121: CURRENT STATUS OF OTHER CHARGES:**

No license shall be issued to any applicant who is in arrears in the payment to the town for any business license, or who is otherwise indebted to the town. Failure to pay business license fees or other charges assessed by the town when due shall be a basis to deny, suspend or revoke any license application or license issued hereunder.

### **3.04.122: LICENSE REVERSION TO TOWN:**

A license issued under this chapter which is not used by the licensee within a period in excess of ninety (90) consecutive days shall automatically revert to the town and shall no longer have any validity.

### **3.04.123: BOND TO GUARANTEE COMPLIANCE:**

The town council reserves, for implementation at a future time, the right to require of establishments licensed under this chapter, additional bonding other than required by this chapter to guarantee compliance with all laws and ordinances and which may be forfeited to the town upon such conditions as the governing body may, at a future time, adopt and specify by ordinance.

### **3.04.124: CERTIFICATION OF EMPLOYEES:**

The right to a license hereunder shall be conditioned at all times upon compliance with the following:

(1) Beer Handler's Permit: A licensee involved in the transaction of retail beer sales for off premises consumption shall require all employees involved in the transaction of retail beer sales to obtain a beer handler's permit from the public safety department. All employees of a licensee involved in the transaction of retail beer sales will be required to possess and wear a beer handler's permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person. New employees of a licensee shall obtain a beer handler's permit within thirty (30) days of hire.



(a) Applications For Beer Handler's Permit: To obtain a beer handler's permit, applicants must:

- (i) Fill out and file a beer handler's permit application form and criminal background authorization with the public safety department;
- (ii) Produce acceptable photo identification showing the identity of the applicant;
- (iii) Attend a beer handler's permit training session administered by the public safety department; and
- (iv) Pass the beer handler's permit test given by the public safety department with a score of at least eighty percent (80%) correct.

(b) Qualifications For Beer Handler's Permit: If all of the requirements of subsection (1)(a) of this section are satisfied, the public safety department shall issue the applicant a beer handler's permit photo identification card. A permit shall not be granted to any individual who has had a felony conviction within five (5) years, or a misdemeanor conviction involving alcohol or controlled substances within three (3) years.

(c) Compliance Checks: Licensees shall permit law enforcement officers to conduct random beer handler's permit compliance checks on the licensee's premises.

(d) Licensee Duty To Inform: The licensee is required to inform the public safety department within thirty (30) days of any employee possessing a beer handler's permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages, or when the licensee becomes aware of any other violation involving the sale of an alcoholic beverage.

(e) Penalties For Violations By Permit Holder: A violation of this section shall be a class B misdemeanor. Additionally, an employee possessing a beer handler's permit who is convicted of violating any law involving the sale of an alcoholic beverage is not only subject to prosecution, but shall incur a suspension of the employee's beer handler's permit as follows:

- (i) First violation, automatic suspension of the employee's beer handler's permit for a period of ninety (90) days;
- (ii) Second violation, automatic suspension of the employee's beer handler's permit for a period of six (6) months;

(iii) Any subsequent violation, automatic suspension of the employee's beer handler's permit for a period of two (2) years.

(2) State Training: All employees of a licensee and any licensee who will be authorized to sell, furnish or serve alcoholic beverages to the public shall be at least twenty one (21) years of age and complete, within thirty (30) days after the issuance of a license or commencement of employment, an alcohol training and education seminar as set forth in Utah Code Annotated section 62A-15-401, as amended, and shall thereafter maintain a current certification under this section. Any licensee or employee who sells, furnishes or serves alcoholic beverages without obtaining certification required herein shall, in addition to any other penalty provided herein, be prohibited from obtaining certification for a period of one year from the date of violation.

(3) Certification Denial: No certificate shall be issued to an employee or licensee who has been convicted of a drug or alcohol related offense during a period of one year preceding the application for a certificate, unless this condition is expressly waived in writing by the public safety department after investigation of the circumstances. If charges are pending against an employee or licensee arising out of a drug or alcohol related offense, no certificate shall be issued until such charges are resolved and, if there is a conviction, none shall be issued for a period of one year thereafter.

(4) Drug Or Alcohol Convictions: If any certified employee or certified licensee is convicted of any drug or alcohol related offense, including the crime of driving under the influence, their certificate shall be automatically revoked and such employee or licensee shall not be permitted to sell, furnish or serve alcoholic beverages for a period of one year and until a new certification is obtained.

(5) Appeal: The procedures for revoking, suspending or refusing to renew a beer handler's permit or certification under this section shall be the same as set forth in section 3.04.127 of this chapter.

### **3.04.125: UNLAWFUL ACTS; GROUNDS FOR REVOCATION, SUSPENSION OR REFUSAL TO RENEW LICENSE:**

It shall be a class B misdemeanor, and the town council may revoke, suspend or refuse to renew an alcoholic beverage control license, if a licensee violates any operational restrictions of the license, any unlawful acts set forth in this chapter or the Act, or any of the following grounds for revocation, suspension or refusal to renew a license:

(1) Unlawful Acts:

(a) Intoxicated Person On Licensed Premises: It shall be unlawful for any person or for any of his agents or employees to allow intoxicated persons to remain in or about any licensed premises.

(b) Advertising Sale: It shall be unlawful to advertise the sale of alcoholic beverages on billboards or other media in violation of the Utah Alcoholic Beverage Control Act.

(c) Wholesaler And Retailer Not To Have Common Interests: It shall be unlawful for any dealer, brewer, warehouser or wholesaler to either directly or indirectly supply, give or pay for any furniture, furnishings or fixtures of a retailer, and it shall be unlawful for any dealer or brewer to advance funds, money or pay for any license of a retailer or to be financially interested either directly or indirectly in the conduct or operation of the business of any retailer.

(d) Violence And Disorderly Conduct On Premises: It shall be unlawful for any licensee to suffer or allow any violence or disorderly conduct to be committed, or suffer or allow any disorderly person to be or remain, upon any licensed premises.

(e) Minimum Light And Open View Required In Licensed Premises: It shall be unlawful for any person to own, operate or manage any premises licensed for the sale of beer without complying with the following lighting and view requirements:

(i) During business hours, a minimum of three (3) candlepower of light measured at a level five feet (5') above the floor shall be maintained; and

(ii) No enclosed booths, blinds or stalls shall be erected or maintained.

(f) Employees: It shall be unlawful for anyone to be employed by a licensee who has been convicted of a felony within five (5) years prior to employment or who has not secured an expungement of record of any felony conviction entered prior to such five (5) year period, or who has within three (3) years prior been convicted of any violation of any law or ordinance involving moral turpitude, controlled substances or relating to alcoholic beverages, driving charges involving alcohol or drugs, or keeping a gambling or disorderly house, or who has pleaded guilty to or has forfeited bail on any such charge.

(g) Employers: It shall be unlawful for a licensee not to inform the public safety department of any employees whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages, regardless of whether the conduct has been previously reported to the public safety department.

(h) Inspection Of Premises And Duty To Furnish Samples: All premises licensed pursuant to this chapter or the Act shall be subject to inspection by any law enforcement agency or by any designated agent of the town as well as by the Wasatch County Health Department or state board of health. It shall be unlawful for any licensee to refuse, at the request of the board of health, to furnish samples of beer which the licensee holds for sale.

(i) Premises Accessibility To Law Enforcement: It shall be unlawful for any door or other means of ingress or egress from any licensed premises to be locked or barred or barricaded in any way so as to interfere with the free entrance of the licensed premises by any law enforcement officer or any other peace officer at any time while the premises are occupied or open to the public. All doors or other means of entrance thereto during the time the premises is occupied or open to the public shall be left unlocked or unfastened so that any law enforcement may enter the same without any hindrance or delay; provided, however, that there may be maintained upon the premises a locked storeroom for the keeping of goods and supplies used in the business. Such storerooms shall at all times be subject to search and inspection by any law enforcement officer upon compliance with procedural requirements. It is unlawful for any licensee to deny any peace officer immediate access to the storeroom for search or inspection upon demand made for such access. It is unlawful for any licensee to suffer any person, except a bona fide employee of the licensee or peace officer, to enter or remain in the storeroom.

(j) Warning Of Approach Of Law Enforcement: It shall be unlawful for any person commonly known as a "lookout" to be stationed or maintained to give warning of the approach of any peace officer to the premises. It shall be unlawful to maintain or operate any electrical or other device which is used or capable of being used to give warning to persons within any such licensed premises of any peace officer.

(k) Solicitation For Immoral Purposes On Premises: It is unlawful for any person to solicit any other person upon any licensed premises for any sexual purpose, or to be upon such premises for the purpose of solicitation. It is unlawful for any licensee to suffer or allow any violation of the immediately preceding prohibition upon the licensed premises.

(2) Additional Grounds For Revocation, Suspension Or Refusal To Renew License:

(a) False Or Fraudulent Information: The licensee submits false or fraudulent information on any application or document filed with the town.

(b) Delinquent Fees: The licensed business is delinquent for more than ninety (90) days in the payment of any fee or charge due the town.

(c) License Transfer: The licensee attempts to, or does, assign, transfer or sell a license in violation of this chapter.

(d) Records And Documents: The licensee fails to keep, or make available to the town upon reasonable request, all records, invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of alcoholic beverages.

(e) Convictions: The licensee is convicted of a felony or any violation of any law or ordinance relating to alcoholic beverages, driving under the influence of

alcohol or alcohol related reckless driving, keeping a gambling house or disorderly house, or any law or ordinance involving moral turpitude.

(f) Violations Of Law Or Regulations: The licensee violates or fails to comply with this chapter or the Act, or ceases to possess all of the qualifications required by this chapter or the Act.

(g) Failure To Meet License Qualifications: The licensee no longer possesses the qualifications required for the alcoholic beverage control license.

### **3.04.126: BUSINESS OWNER RESPONSIBLE FOR CONCESSIONAIRE:**

If otherwise permitted by law, business or premises owners who contract out the sale of alcoholic beverages on the business premises to an independent concessionaire, violation by said concessionaire of any provision of this chapter shall constitute grounds for suspension and/or revocation of the license of said business or premises owner.

### **3.04.127: PROCEDURES FOR REVOKING, SUSPENDING OR REFUSING TO RENEW LICENSE:**

The town should follow the following procedures in suspending, revoking or refusing to renew an alcoholic beverage control license:

(1) Investigation: The public safety director shall receive all complaints of alleged violations of this chapter and is responsible for ordering through its department or other appropriate department the investigation of all allegations of a violation of, or noncompliance with, this chapter, the Act, or any condition imposed upon the licensee by the town in issuing the license. If, upon completion of the investigation, the public safety director determines that there is good cause to believe that a violation has occurred, he/she shall cause a written notice of the violation to be delivered to the licensee, which may be delivered by U.S. mail, postage prepaid to the address shown on the application of a license under this chapter, which notice shall contain the following: a) the date and nature of the alleged violation; b) a statement that said violation may be grounds for suspension or revocation of the license; c) a statement that the licensee may request a hearing before a hearing officer by filing a written request therefor within ten (10) days after receipt of the notice of violation; and d) a statement that failure of the licensee to file a written request for hearing shall be deemed an admission of the truthfulness of the alleged violation. In the event that the licensee fails to file a written request for hearing, the hearing may immediately suspend or revoke the license. In the event that the licensee files a written request for hearing, the license officer shall then set a hearing before the hearing officer and shall send notice of the date, time and place of hearing to the licensee.

(2) Hearing: The hearing officer shall conduct a hearing and may accept any relevant and material evidence and testimony and apply any evidentiary rules set forth in the rules of the Utah department of alcoholic beverage control. The town shall prepare an official record of the hearing, including all testimony recorded mechanically or stenographically and all exhibits introduced. The town is not required to transcribe such record except pursuant to an appeal; however, the town may transcribe the record or allow for its transcription by the person requesting it. Hearings before the hearing officer are open to the public and are informal, with technical rules of evidence not applying to the proceedings. The licensee involved and any person requesting a hearing may be present and cross examine witnesses and give evidence at the hearing.

(3) Decision: If the hearing is conducted, the hearing officer shall issue a decision no later than ten (10) days following the hearing. Such decision may be in writing or entered on the record at the hearing. Such decision shall then be final for purposes of appeal.

(4) Emergency Suspension: Upon the arrest of any proprietor, officer, director, manager, managing agent or licensee holding any alcoholic beverage control license from the town, the town council may take emergency action by immediately suspending the operation of the licensee for the period during which the criminal matter is being adjudicated.

### **3.04.128: APPLICABILITY:**

This chapter shall be applicable to all persons holding valid licenses hereunder at the effective date hereof, or who may hold such in the future.

### **3.04.129: PENALTIES FOR VIOLATION:**

(1) General Provisions: In addition to the denial, suspension, revocation or refusal to renew an alcoholic beverage control license, the licensee or any person who shall violate the provisions of this chapter shall be guilty of a class B misdemeanor, unless otherwise established by law. For purposes of this chapter, a violation can be found either as the result of a criminal conviction or as the result of an administrative hearing under the licensing provisions of this chapter or state law.

(2) Enhancement For Licensees: This subsection applies to any conviction of class B misdemeanors, or more serious classification of offenses, under this chapter or similar state laws. It is specifically provided, that in case of a licensee's second conviction, within a twenty four (24) month period, the minimum penalty prescribed shall be not less than five hundred dollars (\$500.00), and in case of a licensee's third or subsequent conviction under this chapter within a twenty four (24) month period, the minimum penalty shall be not less than one thousand dollars (\$1,000.00). For the purposes of this chapter, the forfeiture of bail on a charge is deemed a prior conviction. This does not preclude the enforcement of any civil or administrative penalties applicable to said violations.

(3) Civil Penalties For Licensees: Violations of this chapter by an alcoholic beverage control licensee, officer, manager, employee, agent or beer handler's permit shall result in the following administrative sanctions in addition to any criminal penalties assessed:

(a) First violation, fourteen (14) day suspension of an alcoholic beverage control license or beer handler's permit.

(b) Second violation within twenty four (24) month period, six (6) month suspension of an alcoholic beverage control license or beer handler's permit.

(c) Third violation within forty eight (48) month period, one year suspension of an alcoholic beverage control license or beer handler's permit.

(d) Fourth violation within forty eight (48) month period, permanent revocation of alcoholic beverage control license or beer handler's permit.

(4) Time Calculation: Any time period, during which a permit is suspended, shall be excluded when calculating the time period in determining the applicable enhancing civil penalty.

## **PART 2: OFF PREMISES BEER RETAIL LICENSE; GENERAL FOOD STORES AND CONVENIENCE STORES**

### **3.04.201: OFF PREMISES BEER RETAIL LICENSE:**

(1) Permitted Sales: An off premises beer retail license shall entitle the licensee to sell beer on the premises described therein in original containers, not to exceed one quart, for consumption off the premises.

(2) Applicability: An off premises beer retail license may be issued by the town to a general food store or a convenience store.

(3) Beer Sales As Percent Of Sales: Each off premises beer retail licensee shall maintain at least eighty percent (80%) of its total monetary gross receipts from the sale of products other than beer.

(4) Prohibited Actions: It shall be unlawful for any person to sell or provide beer for consumption off the premises without first having obtained an off premises beer retail license to do so from the town. It shall also be unlawful for an off premises beer retail licensee to permit the consumption of beer or other alcoholic beverages on the licensed premises.

(5) Commercial Zones: Any license under this chapter may only be granted if the use is allowed within the applicable zoning district. Off premises beer retail licenses may not be granted in any other zoning district of the town.

(6) Employment Of Minors: A licensee holding an off premises beer retail license may employ persons eighteen (18) years of age through twenty (20) years of age to transact the sale of or handle beer in its sealed original containers, provided they are under the supervision of a person at least twenty one (21) years of age and who is on the premises. Said licensee may also employ persons sixteen (16) years of age through seventeen (17) for the handling of beer, exclusive of transactions, in its sealed original containers, provided they are under the supervision of a person at least twenty one (21) years of age and who is on the premises. Said activity is limited to locating or transporting beer upon the premises.

(7) Record Requirements: Holders of off premises beer retail licenses shall maintain records which shall disclose the gross sale of beer during each and every year. Such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an off premises beer retail license.

(8) Advertising: No advertising shall take place in violation of the Utah Alcoholic Beverage Control Act or regulations issued by the Utah department of alcoholic beverage control.

(9) Shoplifting Controls: An off premises beer retail licensee shall make every reasonable effort to limit the potential for theft of alcoholic beverages from licensed premises. A clear, unobstructed view of all portions of the interior shall be available at all times from a point within the licensed premises at or near the main public entrance. An alcoholic beverage inventory shrinkage record shall be kept by the licensee and made available at any time upon request to the law enforcement agency or town staff for inspection or audit. Failure of a licensee to properly maintain the alcoholic beverage inventory shrinkage record or failure to submit such records for inspection and audit shall be a class B misdemeanor and shall be cause for suspension or revocation of the off premises beer retail license.

### **PART 3: ON PREMISES BEER RETAIL LICENSE**

#### **3.04.301: ON PREMISES BEER RETAIL LICENSE:**

(1) Application And Renewal Requirements: It shall be unlawful for any person to sell, serve or allow the consumption of beer on its premises without first having obtained an on premises beer retail license to do so from both the town and the commission. In



addition to the general application requirements of this chapter, a person seeking an on premises beer retail license shall provide to the town the same information required by Utah Code Annotated section 32A-10-202 of the Act, as amended.

(2) Operational Restrictions: Each on premises beer retail licensee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-10-206 of the Act, as amended, that are not in conflict with this part.

(3) Commercial Zones: An on premises beer retail license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. On premises beer retail licenses may not be granted in any other zoning district of the town.

(4) Record Requirements: Holders of on premises beer retail licenses shall maintain records required by Utah Code Annotated section 32A-10-206 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an on premises beer retail license.

(5) Bonding Requirements: Each on premises beer retail licensee shall post a cash or corporate surety bond in the penal sum of ten thousand dollars (\$10,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on premises beer retail licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the ten thousand dollar (\$10,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

## **PART 4: RESTAURANT LIQUOR LICENSE**

### **3.04.401: RESTAURANT LIQUOR LICENSE:**

(1) Application And Renewal Requirements: It shall be unlawful for any person to sell, serve, or allow the consumption of beer or liquor on its premises without first having obtained a restaurant liquor license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a restaurant liquor license shall provide to the town the same information required by Utah Code Annotated section 32A-4-102 of the Act, as amended.

(2) Operational Restrictions: Each restaurant liquor licensee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-4-106 of the Act, as amended, that are not in conflict with this part.

(3) Commercial Zones: A restaurant liquor license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. Restaurant liquor licenses may not be granted in any other zoning district of the town.

(4) Record Requirements: Holders of restaurant liquor licenses shall maintain records required by Utah Code Annotated section 32A-4-106 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a restaurant liquor license.

(5) Bonding Requirements: Each restaurant liquor licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a restaurant liquor licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

## **PART 5: LIMITED RESTAURANT LIQUOR LICENSE**

### **3.04.501: LIMITED RESTAURANT LIQUOR LICENSE:**

(1) Definitions: For purposes of this part, the term "wine" shall be defined as set forth in Utah Code Annotated section 32A-4-301 of the Act, as amended.

(2) Application And Renewal Requirements: It shall be unlawful for any person to sell, serve, or allow the consumption of beer, heavy beer or wine on its premises without first having obtained a limited restaurant liquor license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a limited restaurant liquor license shall provide to the town the same information required by Utah Code Annotated section 32A-4-303 of the Act, as amended.

(3) Operational Restrictions: Each limited restaurant liquor licensee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-4-307 of the Act, as amended, that are not in conflict with this part.

(4) Commercial Zones: A limited restaurant liquor license may only be granted if the licensee's premises are located in a zoning district wherein such use is allowed. Limited restaurant liquor licenses may not be granted in any other zoning district of the town.

(5) Record Requirements: Holders of limited restaurant liquor licenses shall maintain records required by Utah Code Annotated section 32A-4-307 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a limited restaurant liquor license.

(6) Bonding Requirements: Each limited restaurant liquor licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a limited restaurant liquor licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

## **PART 6: ON PREMISES BANQUET LICENSE**

### **3.04.601: ON PREMISES BANQUET LICENSE:**

(1) Definitions: For purposes of this part, the terms "banquet", "hotel", and "resort facility" and "room service" shall be defined as set forth in Utah Code Annotated section 32A-4-401 of the Act, as amended.

(2) Application And Renewal Requirements: It shall be unlawful for any person to sell, serve or allow consumption of beer or other alcoholic beverages in connection with that person's banquet and room service activities without first having obtained an on premises banquet license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking an on premises banquet license shall provide to the town the same information required by Utah Code Annotated section 32A-4-402 of the Act, as amended.

(3) Operational Restrictions: Each on premises banquet licensee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-4-406 of the Act, as amended, that are not in conflict with this part.

(4) Commercial Zones: An on premises banquet license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. On premises banquet licenses may not be granted in any other zoning district of the town.

(5) Record Requirements: Holders of on premises banquet licenses shall maintain records required by Utah Code Annotated section 32A-4-406 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of an on premises banquet license.

(6) Bonding Requirements: Each on premises banquet licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as an on premises banquet licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

## **PART 7: PRIVATE CLUB LIQUOR LICENSE**

### **3.04.701: PRIVATE CLUB LIQUOR LICENSE:**

(1) Application And Renewal Requirements: It shall be unlawful for a private club to sell, serve, or allow the consumption of beer or other alcoholic beverages on its premises without first having obtained a private club liquor license to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a private club liquor license shall provide to the town the same information required by Utah Code Annotated section 32A-5-102 of the Act, as amended.

(2) Operational Restrictions: Each private club liquor licensee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-5-107 of the Act, as amended, that are not in conflict with this part.

(3) Commercial Zones: A private club liquor license may only be granted if the licensee's premises is located in a zoning district wherein such use is allowed. Private club liquor licenses may not be granted in any other zoning district of the town.

(4) Record Requirements: Holders of private club liquor licenses shall maintain records required by Utah Code Annotated section 32A-5-107 of the Act, as amended, and such records shall be available for inspection and audit by an authorized town employee at any time following the end of each year and for eighteen (18) months thereafter. Failure of a licensee to properly maintain the required records or failure to submit such records for inspection and audit shall be cause for suspension or revocation of a private club liquor license.

(5) Bonding Requirements: Each private club liquor licensee shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00) payable to the town, which the licensee has procured and must maintain for so long as the licensee continues to operate as a private club liquor licensee. The bond shall be in a form approved by the town attorney, conditioned upon the licensee's faithful compliance with this title and the ordinances and rules and regulations of the town and the commission. If the one thousand dollar (\$1,000.00) corporate surety bond is canceled due to the licensee's negligence, a three hundred dollar (\$300.00) reinstatement fee may be assessed by the town. No part of any cash or corporate bond so posted may be withdrawn during the period the license is in effect, or while revocation proceedings are pending against the licensee. A bond filed by the licensee may be forfeited if the license is finally revoked.

## **PART 8: SINGLE EVENT PERMIT**

### **3.04.801: SINGLE EVENT PERMIT:**

(1) Application And Renewal Requirements: It shall be unlawful for a "qualified entity", as defined under Utah Code Annotated section 32A-7-101 of the Act, as amended, that is conducting a convention, civic or community enterprise, to sell, serve or allow the consumption of liquor without first having obtained a single event permit to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a single event permit shall provide to the town the same information required by Utah Code Annotated section 32A-7-102 of the Act, as amended. The town shall not issue more than four (4) single event permits in any one calendar year to the same qualified entity.

(2) Operational Restrictions: Each single event permittee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-7-106 of the Act, as amended, that are not in conflict with this part.

(3) Commercial Zones: A single event permit may only be granted if the permittee's premises is located in a zoning district wherein such use is allowed. A single event permit may not be granted in any other zoning district of the town.

(4) Bonding Requirements: Each applicant for a single event permit shall post a cash or corporate surety bond in the penal sum of one thousand dollars (\$1,000.00), with the exception of a class D private club liquor license for which the bond shall be ten thousand dollars (\$10,000.00), payable to the town, which the licensee has procured and must maintain for so long as the permit is in effect. The bond shall be in a form approved by the town attorney, conditioned upon the permittee's faithful compliance with this chapter, the Act, and the rules and regulations of the commission. No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee may be forfeited if the permit is revoked.

## **PART 9: TEMPORARY SPECIAL EVENT PERMIT**

### **3.04.901: TEMPORARY SPECIAL EVENT PERMIT:**

(1) Application And Renewal Requirements: It shall be unlawful for a person to sell beer for on premises consumption at a temporary special event without first having obtained a temporary special event permit to do so from both the town and the commission. In addition to the general application requirements of this chapter, a person seeking a temporary special event permit shall provide to the town the same information required by Utah Code Annotated section 32A-10-302 of the Act, as amended.

(2) Operational Restrictions: Each temporary special event permittee shall abide by all of the operational restrictions set forth in Utah Code Annotated section 32A-10-303 of the Act, as amended, that are not in conflict with this part.

(3) Commercial Zones: A temporary special event permit may only be granted if the permittee's premises is located in a zoning district wherein such use is allowed. A temporary special event permit may not be granted in any other zoning district of the town.

(4) Bonding Requirements: Each applicant for a temporary special event permit shall post a cash or corporate surety bond in the penal sum of five hundred dollars (\$500.00), payable to the town, which the licensee has procured and must maintain for so long as the permit is in effect. The bond shall be in a form approved by the town attorney, conditioned upon the permittee's faithful compliance with this chapter, the Act, and the rules and regulations of the commission. No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect. A bond filed by the permittee may be forfeited if the permit is revoked.

(5) Duration Of Permit: The duration of any temporary special event permit granted hereunder shall not exceed thirty (30) days. The sale of beer under a series of permits issued to the same person may not exceed a total of ninety (90) days in any one calendar year.

## **CHAPTER 5**

### **CHARITABLE SOLICITATIONS**

#### **Section**

- 3.05.101: DEFINITIONS:
- 3.05.102: USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION
- 3.05.103: USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED
- 3.05.104: VIOLATION; PENALTY

#### **3.05.101: DEFINITIONS:**

As used in this chapter:

**CHARITABLE ORGANIZATION:** Any organization that is benevolent, philanthropic, patriotic or eleemosynary, or one purporting to be such.

**CONTRIBUTION:** The promise or grant of any money or property of any kind or value.

**PERSON:** Any individual, organization, group, association, partnership, corporation or any combination of them.

**PROFESSIONAL FUNDRAISER:** Any person who, for compensation or any other consideration, plans, conducts or manages the solicitation of contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons as independently engaged in the business of soliciting contributions for such purpose, but shall not include a bona fide officer or employee of a charitable organization.

**PROFESSIONAL SOLICITOR:** Any person who is employed or retained for compensation by a professional fundraiser to solicit contributions in this municipality for charitable purposes.

#### **3.05.102: USE OF PERSON'S NAME WITHOUT CONSENT FOR SOLICITING CONTRIBUTIONS PROHIBITED; EXCEPTION:**

No charitable organization, professional fundraiser or professional solicitor, seeking to raise funds for charitable purposes, shall use the name of any other person for the purpose of soliciting contributions without the written consent of the person; provided, that this section shall not apply to religious corporations or organizations, charities, agencies and organizations operated, supervised or controlled by or in connection with a religious corporation or organization.



**3.05.103: USE OF NAME WITHOUT CONSENT ON STATIONERY OR AS ONE WHO CONTRIBUTED TO ORGANIZATION PROHIBITED:**

It is deemed to be a violation of this chapter to use, without written consent, the name of a person for the purpose of soliciting contributions if the person's name is listed on any stationery, advertisement, brochure or correspondence, or a charitable organization, or his name is listed or referred to as one who has contributed to, sponsored or endorsed the charitable organization or its activities.

**3.05.104: VIOLATION; PENALTY:**

Any person who violates the provisions of this chapter is guilty of a class B misdemeanor.

## **CHAPTER 6**

### **OFFENSIVE BUSINESSES AND FACILITIES**

#### Section

- 3.06.101: OFFENSIVE BUSINESS; PERMIT REQUIRED
- 3.06.102: PERMITS; ISSUANCE
- 3.06.103: EXISTING OFFENSIVE BUSINESSES AND FACILITIES
- 3.06.104: CONTROL OF ANIMAL AND FOWL FACILITIES

#### **3.06.101: OFFENSIVE BUSINESS; PERMIT REQUIRED:**

(1) No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits of this municipality without first filing an application for a permit to do so with the town recorder.

(2) "Offensive businesses", within the meaning of this chapter, shall include, but not be limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases or noises.

(3) The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control or modify the emission by the business of the undesirable odors, fumes, noises and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

#### **3.06.102: PERMITS; ISSUANCE:**

(1) The town recorder shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the board of health and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the governing body. The governing body, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the governing body may:

- (a) Deny the application;
- (b) Recommend a modification thereof;

(c) Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the governing body with reference to controlling the offensive features of the business.

(2) In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct his business in the manner specified by the governing body at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.

(3) The governing body shall have power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

### **3.06.103: EXISTING OFFENSIVE BUSINESSES AND FACILITIES:**

(1) The governing body may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the municipal limits. If the governing body determines that the continuation of the business or facility has become a nuisance to persons situated within the municipal limits, or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases and noise, it shall notify the owner or operator thereof that the governing body is considering revoking or modifying the operator's license.

(2) If the governing body decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform or otherwise lose its license to engage thereafter in the business or activity.

### **3.06.104: CONTROL OF ANIMAL AND FOWL FACILITIES:**

(1) The governing body shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the municipality and may compel the owner of any pigsty, privy, barn, corral, furbearing animal farm, feed yard, poultry farm or other unwholesome or nauseous house or place to cleanse, abate or remove the same.

(2) The governing body may on its own initiative and shall, on complaint of a member of the public, examine the operation, control or location of any business or facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.

(3) In the event that the governing body decides that the business or facility should be abated, removed or controlled, it shall notify the owner or operator of the business or facility of such fact.

(4) After a hearing, the governing body may issue a limited license wherein it may prescribe the specifications and standards which must be followed by the business or facility in order to be permitted to continue in operation.

(5) Upon determination by the governing body that the business or facility is a nuisance, it shall have power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the governing body shall have the power to bring all necessary legal proceedings to force removal, abatement or adherence to standards.

## **CHAPTER 7**

### **RESIDENTIAL SOLICITATION**

#### **Section**

3.07.101:	PURPOSE
3.07.102:	NO OTHER TOWN LICENSE OR APPROVAL REQUIRED
3.07.003:	DEFINITIONS
3.07.004:	EXCEPTIONS FROM CHAPTER
3.07.005:	UNREGISTERED SOLICITATION PROHIBITED
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3.07.011:	FORM OF CERTIFICATE AND IDENTIFICATION BADGE
3.07.012:	MAINTENANCE OF REGISTRY
3.07.013:	NON-TRANSFERABILITY OF CERTIFICATES
3.07.014:	DENIAL, SUSPENSION, OR REVOCATION OF A CERTIFICATE OF REGISTRATION
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3.07.017:	“NO SOLICITING” NOTICE
3.07.180:	DUTIES OF SOLICITORS
3.07.019:	TIME OF DAY RESTRICTIONS
3.07.020:	BUYER’S RIGHT TO CANCEL
3.07.021:	PENALTIES
3.07.022:	PRIVATE ACTION

#### **3.07.001: PURPOSE:**

Residents of the Town have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The Town has a substantial interest in protecting the well being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The Town also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

There must be a balance between these substantial interests of the Town and its citizens, and the effect of the regulations in this Chapter on those who are regulated. Based on the collective experiences of Town officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement

officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions regarding door-to-door solicitation, the Town adopts this Chapter to promote the Town's substantial interests in:

- (1) Respecting citizen's decisions regarding privacy in their residences;
- (2) Protecting persons from criminal conduct;
- (3) Providing equal opportunity to advocate for and against religious, political position, or charitable activities; and
- (4) Permitting truthful and non-misleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

The Town finds that the procedures, rules, and regulations set forth in this Chapter are narrowly tailored to preserve and protect the Town interests referred to herein while at the same time balancing the rights of those regulated.

### **3.07.002: NO OTHER TOWN LICENSE OR APPROVAL REQUIRED:**

- (1) Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the Town to engage in door-to-door solicitation.
- (2) Any business licensed by the Town under another Town ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.
- (3) Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the Town, provided they do not establish a temporary or fixed place of business in the Town.
- (4) Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

### **3.07.003: DEFINITIONS:**

For the purposes of this Chapter, the following definitions shall apply:

- (1) "Advocating" means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

(2) "Appeals Officer" means the Mayor or designee of the Town responsible for receiving the information from the Town and appellant regarding the denial, suspension, or revocation of a certificate and issuing a decision as required by this Chapter.

(3) "Appellant" means the person or entity appealing the denial, suspension, or revocation of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

(4) "Applicant" means an individual who is at least sixteen (16) years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

(5) "Application form" means a standardized form provided by the Town to an applicant to be completed and submitted as part of registration.

(6) "BCI" means Bureau of Criminal Identification.

(7) "Business" means a commercial enterprise that is to be licensed by the Town as a person or entity under this Title, having a fixed or temporary physical location within the Town.

(8) "Certificate" means an annual or renewal certificate permitting door-to-door solicitation in the Town applied for or issued pursuant to the terms of this Chapter.

(9) "Charitable activities" means advocating by persons or entities that either are, or support, a charitable organization.

(10) "Charitable organization" is as defined in Section 13-22-2, Utah Code (as amended), or listed in Section 13-22-8(1) thereof.

(11) "Competent individual" means a person claiming or appearing to be at least eighteen (18) years of age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

(12) "Completed application" means a fully completed application form, a BCI background check, two (2) copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

(13) "Criminally convicted" means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, or entry of a no contest, or guilty plea, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense to which the applicant or registered solicitor has pleaded guilty or no contest, without regard to the reduced status of the charge after completion of conditions of probation or parole, and without regard to charges dismissed under a plea in abeyance or diversion agreement.

(14) "Disqualifying status" means anything defined in this Chapter as requiring the denial or suspension of a certificate as set forth in this Chapter.

(15) "Door-to-door solicitation" means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale, or attempting to further the sale of goods and or services.

(16) "Entity" includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association, or a natural person.

(17) "Fees" means the cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge.

(18) "Final civil judgment" means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

(19) "Goods" means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

(20) "Home solicitation sale" means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:

- (a) The means of payment or consideration used for the purchase;

- (b) The time of delivery of the goods or services; or

- (c) The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

(21) "Licensing officer" means the Town employee(s) or agent(s) responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

(22) "No solicitation sign" means a reasonably visible and legible sign that states "No Soliciting," "No Solicitors," "No Salespersons," "No Trespassing," or words of similar import.

(23) "Political position" means any actually held belief or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

(24) "Registered solicitor" means any person who has been issued a current certificate by the Town.



(25) "Registration" means the process used by the Town licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

(26) "Religious belief" means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or information is endorsed by any other person or public or private entity.

(27) "Residence" means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the Town, together with the lot or other real property on which the living unit is located. This does not include the sidewalk, public street, or public rights-of-way.

(28) "Responsible person or entity" means that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

- (a) Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

- (b) Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

- (c) Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

(29) "Sale of goods or services" means the conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good(s) or service(s) that entitles the consumer to rescind the same within three (3) days under any applicable federal, state, or local law.

(30) "Services" means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

(31) "Soliciting" or "Solicit" or "Solicitation" means any of the following activities:

- (a) Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

- (b) Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

(c) Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

(d) Seeking to obtain orders or prospective customers for goods or services;

(e) Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale; or

(f) Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

(32) "Solicitor" or "Solicitors" means a person(s) engaged in door-to-door solicitation.

(33) "Waiver" means the written form provided to applicant by the Town wherein applicant agrees that the Town may obtain a name/date of birth BCI background check on the applicant for licensing purposes under this Chapter, and which contains applicant's notarized signature.

### **3.07.004: EXEMPTIONS FROM CHAPTER:**

The following are exempt from registration under this Chapter:

(1) Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

(2) Persons whose license, permit, certificate, or registration with the state of Utah permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

(3) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;

(4) Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position;

(5) Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting; and

(6) Persons involved in de minimus solicitation, involving the sale, exchange, or contribution of money, services, goods, or other consideration valued at less than Twenty Dollars (\$20.00).

Those Persons exempt from registration are not exempt from the duties and prohibitions outlined in Sections 3.07.017, 3.07.018, and 3.07.019 while advocating or soliciting.

### **3.07.005: UNREGISTERED SOLICITATION PROHIBITED:**

Unless otherwise registered, authorized, permitted, or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon private property or a private residence within the Town by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this Chapter.

### **3.07.006: REGISTRATION OF SOLICITORS:**

Unless otherwise exempt under this Chapter, all persons desiring to engage in door-to-door solicitation within the Town, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate.

### **3.07.007: APPLICATION FROM:**

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and fee:

(1) Review of written disclosures. An affirmation that the applicant has received and reviewed the disclosure information required by this Chapter.

(2) Contact information.

(a) Applicant's true, correct and legal name, including any former names or aliases used during the last ten (10) years;

(b) Applicant's telephone number, home address, and mailing address, if different;

(c) If different from the applicant, the name, address, and telephone number of the responsible person or entity; and

(d) The address by which all notices to the applicant required under this Chapter are to be sent.

(3) Proof of identity. An in-person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:

(a) A valid driver's license issued by any state of the United States;

(b) A valid passport issued by the United States;

(c) A valid identification card issued by any state of the United States; or

(d) A valid identification issued by a branch of the United States military.

(4) Proof of registration with Department of Commerce. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the Utah State Department of Commerce.

(5) Special events sales tax number. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.

(6) Marketing information.

(a) The goods or services offered by the applicant, including any commonly known, registered or trademarked names; and

(b) Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

(7) BCI background check. The applicant shall provide:

(a) An original or a certified copy of a BCI background check dated within the last one hundred eighty (180) days as defined in 3.07.003; and

(b) A signed copy of a waiver whereby applicant agrees to allow the Town to obtain a name and date of birth in order to perform a background check on applicant for purposes of enforcement of this Chapter. (See Section 53-10-108(1)(b) Utah Code (as amended)).

(8) Responses to questions regarding "disqualifying status." The applicant shall be required to affirm or deny each of the following statements on the application form:

(a) Whether the applicant has been criminally convicted of:

- (i) felony homicide,
  - (ii) physically abusing, sexually abusing, or exploiting an adult or minor,
  - (iii) the sale or distribution of controlled substances, or
  - (iv) a sexual offense of any kind;
- (b) Whether there are any criminal charges currently pending against the applicant for:
  - (i) felony homicide,
  - (ii) physically abusing, sexually abusing, or exploiting an adult or minor,
  - (iii) the sale or distribution of controlled substances, or (iv) a sexual offense of any kind.
- (c) Whether the applicant has been criminally convicted of a felony within the last ten (10) years;
- (d) Whether the applicant has been incarcerated in a federal or state prison within the past five (5) years;
- (e) Whether the applicant has been criminally convicted of a misdemeanor within the past five (5) years involving a crime of: (i) moral turpitude, or (ii) violent or aggravated conduct involving persons or property;
- (f) Whether a final civil judgment has been entered against the applicant within the last five (5) years indicating that:
  - (i) the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or
  - (ii) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19);
- (g) Whether the applicant, within the last five (5) years, has been enjoined by any court, or is the subject of an administrative order issued in any state, if the injunction or order includes a finding or admission of fraud, material misrepresentation, or if the injunction or order was based on a finding of lack of integrity or honesty;
- (h) Whether the applicant is currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

(i) Whether the applicant has an outstanding arrest warrant from any jurisdiction;

(j) Whether the applicant is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction; or

(k) Whether the applicant has two (2) or more convictions of or any combination of the following: Trespass, trespassery voyeurism, any property crimes, and any violation of this Chapter.

(9) Fee. The applicant shall pay such fees as set forth in the Town's Consolidated Fee Schedule.

(10) Execution of application. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful, and accurate.

(11) Two (2) recent photographs of the applicant, one for the identification badge and one to be kept with the application. The photographs shall reflect the current appearance of the applicant, shall be primarily of the face and shall be approximately 1 ½" x 1 ½" in size.

### **3.07.008: WRITTEN DISCLOSURES:**

The application form shall be accompanied by written disclosures notifying the applicant of the following:

(1) The applicant's submission of the application authorizes the Town to verify information submitted with the completed application including:

(a) The applicant's address;

(b) The applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any; and

(c) The validity of the applicant's proof of identity;

(2) The Town may consult any publicly available sources for information on the applicant, including but not limited to, databases for any outstanding warrants, protective orders, or civil judgments.

(3) Establishing proof of identity is required before registration is allowed;

(4) Identification of the fee amount that must be submitted by applicant with a completed application;

- (5) The applicant must submit a BCI background check with a completed application;
- (6) To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;
- (7) The Town will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the Town offices whether or not a certificate is denied, granted, or renewed;
- (8) The criteria for disqualifying status, denial, suspension, or revocation of a certificate under the provisions of this Chapter; and
- (9) That a request for a certificate will be granted or denied within three (3) business days from when a completed application is submitted.

### **3.07.009: WHEN REGISTRATION BEGINS:**

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

### **3.07.010: ISSUANCE OF CERTIFICATES:**

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

#### **(1) Certificate.**

(a) A certificate shall be issued or denied within three (3) business days of submittal of a completed application. Said certificate allows the applicant to begin door-to-door solicitation upon the following conditions:

- (i) Applicant's submission of a completed application;
- (ii) Applicant's submission of the required fee; and
- (iii) Applicant establishes proof of identity;

(b) The issuance or denial will be based on a review of whether:

(i) The application shows a disqualifying status;

(ii) The background check shows a disqualifying status; and

(iii) The applicant has not previously been denied a certificate by the Town, or had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter.

(2) Renewal certificate. A certificate shall be valid for one (1) year from the date of issuance and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension, or revocation of a certificate are present as set forth in Section 3.07.014, or a disqualifying status is present. Said renewal application shall be submitted between thirty (30) and fifteen (15) days prior to the expiration of the current certificate.

### **3.07.011: FORM OF CERTIFICATE AND IDENTIFICATION BADGE:**

(1) Certificate form. Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the Town.

(2) Identification badge. With the certificate, the Town shall issue each registered solicitor an identification badge that shall be worn prominently on his or her person while soliciting in the Town. The identification badge shall bear the name of the Town and shall contain:

(a) the name of the registered solicitor;

(b) address and phone number of the registered solicitor, or the name, address, and phone number of the responsible person or entity is provided;

(c) a recent photograph of the registered solicitor; and

(d) the date on which the certificate expires.

### **3.07.012: MAINTENANCE OF REGISTRY:**



The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the Town. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the Chief of Police a listing of all applicants, those denied, and those issued a certificate.

### **3.07.013: NON-TRANSFERABILITY OF CERTIFICATES:**

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be non-transferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different:

- (a) goods or services; or
- (b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. If the proposed changes comport with the Town's Code, a new certificate based on the amended information shall be issued for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the Town, after payment of the fee for the identification badge.

### **3.07.014: DENIAL, SUSPENSION, OR REVOCATION OF A CERTIFICATE OF REGISTRATION:**

(1) Denial. Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

- (a) The application form is not complete;
- (b) The applicant failed to establish proof of identity, provide a BCI background check, or pay the fees;
- (c) The completed application or BCI indicates that the applicant has a disqualifying status;
- (d) The applicant has previously been denied a certificate by the Town, or has had a certificate revoked for grounds that still constitute a disqualifying status under this Chapter; or

- (e) The applicant has provided information on the application that is false, incomplete, or incorrect.
- (f) The information submitted by the applicant is found to be incomplete or incorrect;
- (g) Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
- (h) The Town has received a substantiated report regarding the past or present conduct of the applicant;
- (i) The Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
- (j) A final civil judgment has been entered against the applicant indicating that:
  - (1) the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or
  - (2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19).

(2) Denial of renewal certificate may be based on:

- (a) The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;
- (b) Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
- (c) Failure to complete payment of the fees;
- (d) Since the submission of the application or granting of a certificate, the Town has received a substantiated report regarding the past or present conduct of the solicitor;
- (e) The Town or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or
- (f) Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

(1) the applicant had either engaged in fraud, deceit, false statements, dishonesty, or misrepresentation, or

(2) that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. 523(a)(2), (a)(4), (a)(6), or (a)(19).

(3) Suspension or revocation. The Town shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

(4) Notice of denial, suspension, or revocation. Upon determination of the licensing officer to deny an applicant's application or to suspend or revoke a registered solicitor's certificate, the Town shall cause written notice to be sent to the applicant or registered solicitor to the address shown in the completed application. Said mailing constitutes proper notice. The notice shall specify the grounds for the denial, suspension, or revocation, the documentation or information the Town relied on to make the decision, the availability of the documentation for review by applicant upon three (3) business days notice to the Town, and the date upon which the denial, suspension, or revocation of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten (10) business days from the receipt of the notice of denial, suspension, or revocation to appeal the same. The denial, suspension, or revocation of the certificate shall be effective no sooner than two (2) calendar days from the date the notice is sent, unless that suspension or revocation is based on exigent circumstances, in which case, the suspension is effective immediately. The denial, suspension, or revocation shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

### **3.07.015: APPEAL:**

An applicant or registered solicitor whose certificate has been denied, suspended, or revoked shall have the right to appeal to the Mayor or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (a) documents the relationship with the applicant or responsible person or entity; or (b) is licensed or authorized by the state of Utah to do so, and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

(1) Any appeal must be submitted in writing to the Town Clerk with a copy to the license officer within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

(2) Upon request of the applicant or registered solicitor, within three (3) business days, the Town will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

(3) The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension, or revocation, and any additional information supplied by the Town, applicant or registered solicitor. Any additional information submitted by any party to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

(4) The appeals officer will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits rebuttal information as allowed in Section 3.07.015(3), the fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

(a) The denial, suspension, or revocation of the certificate shall be reversed by the appeals officer if, upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

(b) If the written appeal and information submitted indicates that the licensing officer properly denied, suspended, or revoked the certificate of the applicant or registered solicitor, the denial, suspension, or revocation of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

(c) The decision of the appeals officer shall be delivered to the applicant or registered solicitor by mailing it to the address shown in the completed application, or as otherwise agreed upon when the appeal was filed.

(5) After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the Town.

(6) Nothing herein shall impede or interfere with the applicant's, solicitor's, or Town's right to seek relief in a court of competent jurisdiction.

### **3.07.016: DECEPTIVE SOLICITING PRACTICES PROHIBITED:**

(1) No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

(2) A solicitor shall immediately disclose to the consumer during face-to-face solicitation:

- (a) the name of the solicitor;
- (b) the name and address of the entity with whom the solicitor is associated; and
- (c) the purpose of the solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the badge and an informational flyer.

(3) No solicitor shall use a fictitious name, an alias, or any name other than his or her true and correct name.

(4) No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the Town of the solicitor's goods or services or of the individual solicitor.

### **3.07.017: "NO SOLICITING" NOTICE:**

(1) Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a "No Solicitation" or similar sign which may be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence, or otherwise located so as to give reasonable notice thereof.

(2) The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

(3) It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

(4) The provisions of this Section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this Chapter.

### **3.07.018: DUTIES OF SOLICITORS:**

(1) Every person soliciting or advocating has an affirmative legal obligation to check each residence for any "No Soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, "No Solicitation" signs. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

(2) It is a violation of this Chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a "No Solicitation" sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting. Said conduct may also be prosecuted as a violation of laws regarding trespass.

(3) It is a violation of this Chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

(4) Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

(5) The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent.

(6) The solicitor shall not follow a person into a residence without their explicit consent.

(7) The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.

(8) The solicitor shall not use obscene language or gestures.

### **3.07.019: TIME OF DAY RESTRICTIONS:**

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has express prior permission from the resident to do so.

### **3.07.020: BUYER'S RIGHT TO CANCEL:**

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel on or before the third business day after signing an agreement to purchase. Such notice of "buyer's right to cancel" shall be in the form required by Section 70C-5-103, Utah Code (as amended), or a current version thereof or any state or federal law modifying or amending such provision.

### **3.07.021: PENALTIES:**

Unless categorized otherwise by any other law, any person who violates any term or provision of this Chapter shall be guilty of a class "B" Misdemeanor and shall be punished in accordance therewith.

### **3.07.022: PRIVATE ACTION:**

It is not the intent of this Chapter to preclude any individual from pursuing a cause of action against any solicitor for damages or injuries.

## **CHAPTER 8**

### **SEXUALLY ORIENTED BUSINESSES**

#### Section

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## **PART 1. GENERAL PROVISIONS**

### **3.08.101: PURPOSE:**

It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the town. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

### **3.08.102: FINDINGS:**

Based on evidence of the adverse secondary effects of adult uses presented in case law and in reports made available to the town council, and on the findings incorporated in the

cases of *Pap's A.M. v. City of Erie* , 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.* , 475 U.S. 41 (1986); *Young v. American Mini Theatres* , 426 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.* , 501 U.S. 560 (1991); *California v. LaRue* , 409 U.S. 109 (1972); *Heideman v. South Salt Lake City* , 348 F.3d 1182 (10th Cir. 2003); *O'Connor v. City and County of Denver* , 894 F.2d 1210 (10th Cir. 1990); *City of Littleton v. Z.J. Gifts D-4, L.L.C.* , 541 U.S. 774 (2004); *Z.J. Gifts D-2, L.L.C. v. City of Aurora* , 136 F.3d 683 (10th Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County* , 98 F.3d 1262 (10th Cir. 1996); *Sundance Assocs. v. Reno* , 139 F.3d 804 (10th Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County* , 32 F.3d 1436 (10th Cir. 1994); *American Bush v. City of South Salt Lake* , 2006 P.3d (2006 UT 40); and other cases; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Tucson, Arizona - 1990; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Adams County, Colorado - 1998; Denver, Colorado - 1998; Environmental Research Group to the American Center for Law & Justice - 1996; Manatee County, Florida - 1987; Indianapolis, Indiana - 1984; Kansas City, Kansas - 1998; Minneapolis, Minnesota - 1980; Saint Paul, Minnesota - 1988; Las Vegas, Nevada - 1978; Ellicottville, New York - 1998; Islip, New York - 1980; New York City, New York - 1994; Times Square, New York - 1994; New Hanover, North Carolina - 1989; Oklahoma City, Oklahoma - 1986; Amarillo, Texas - 1977; Austin, Texas - 1986; Beaumont, Texas - 1982; Cleburne, Texas - 1997; Dallas, Texas - 1997; El Paso, Texas - 1986; Fort Worth, Texas - 1986; Houston, Texas - 1983 and 1997; Newport News, Virginia - 1996; Bellevue, Washington - 1998; Des Moines, Washington - 1984; Seattle, Washington - 1989; Saint Croix County, Wisconsin - 1993; and also on findings from the paper entitled "Strip Clubs According To Strippers: Exposing Workplace Sexual Violence", by Kelly Holsopple, program director, freedom and justice center for prostitution resources, Minneapolis, Minnesota; Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by David Sherman, presented to the Michigan house committee on ethics and constitutional law, January 12, 2000, Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by David Sherman, presented to the Ohio senate judiciary committee on civil justice, December 3, 2002; Proponent Testimony - Sexually Oriented Businesses: An Insider's View, presented to the Ohio house civil and commercial law committee, April 28, 2004; and Proponent Testimony - Sexually Oriented Businesses: An Insider's View, by Carolyn McKenzie, presented to the Ohio house civil and commercial law committee, April 28, 2004, the city council finds:

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by unlicensed operators of the establishments. Further, there is presently no effective mechanism in this town to make the owners and operators of these establishments responsible for the activities that occur on their premises.

(2) Certain employees of unregulated "sexually oriented businesses" defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.

(4) Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses (or for the purpose of purchasing or selling illicit drugs).

(6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, mycoplasmal and ureoplasmal infections, trichomoniasis and chancroid.

(7) According to research from the Kaiser family foundation, an estimated six hundred fifty thousand (650,000) to nine hundred thousand (900,000) Americans are infected with HIV. The number of new HIV infections occurring each year is now about forty one thousand (41,000). Men and women of all races are most likely to be infected by sexual contact.

(8) Relevant statistics revealed that one thousand six hundred seventy two (1,672) AIDS cases had been reported in Utah as of January 1, 1999. Utah has required HIV case reporting since 1989, and shows one thousand five hundred fifty (1,550) people living with HIV (762) or AIDS (788) in the state.

(9) The center for disease control and prevention estimates that as many as one in three (3) people with HIV do not know they are infected.

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with thirty three thousand six hundred thirteen (33,613) cases reported in 1982 and forty five thousand two hundred (45,200) through November of 1990.

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over five hundred thousand (500,000) cases being reported in 1990.

(12) The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., findings of U.S. department of health and human services.

(14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

(16) The findings noted herein raise substantial governmental concerns.

(17) Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.

(18) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(19) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented businesses.

(20) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

(21) The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them.

(22) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

(23) The fact that an applicant for an adult use has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

(24) The barring of such individuals from employment in sexually oriented businesses for a specified period of years serves to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the town.

(25) The general welfare, health, morals and safety of the citizens of the town will be promoted by the enactment of this chapter.

### **3.08.103: DEFINITIONS:**

For purposes of this chapter, the words and phrases defined in this section shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context:

ADULT ARCADE:

Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices, are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas".

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE:

A commercial establishment which has a significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films,

motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";

(2) Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

#### ADULT CABARET:

A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

(1) Persons who appear seminude;

(2) Live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas"; or

(3) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

#### ADULT MOTEL:

A motel, hotel or similar commercial establishment which:

(1) Offers public accommodations, for any form of consideration, and which regularly provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right of way, or by means of any off premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

and

(2) Offers a sleeping room for rent for a period of time less than ten (10) hours; or  
(3) Allows a tenant or occupant to subrent the sleeping room for a time period of less than ten (10) hours.

ADULT MOTION PICTURE THEATER:

A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

ADULT THEATER:

A theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear live in a state of seminudity or live performances which are characterized by their emphasis upon the exhibition of "specified sexual activities" or "specified anatomical areas".

BUSINESS LICENSE OFFICIAL:

The town business license officer or his designee.

CONTROLLING INTEREST:

The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

DISTINGUISHED OR  
CHARACTERIZED BY AN EMPHASIS  
ON:

The dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are "distinguished or characterized by an emphasis on" the exhibition or description of "specified sexual activities"

or "specified anatomical areas". The films so described are those whose dominant or principal character and theme are the exhibition or description of "specified sexual activities" or "specified anatomical areas".

EMPLOY, EMPLOYEE AND  
EMPLOYMENT:

Describes and pertains to any person who performs any service on the premises of a sexually oriented business, on a full time, part time or contract basis, whether or not the person is designated an employee, independent contractor, agent or otherwise. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

ESTABLISH OR ESTABLISHMENT:

Includes any of the following:  
(1) The opening or commencement of any sexually oriented business as a new business;  
(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;  
(3) The addition of any sexually oriented business to any other existing sexually oriented business; or  
(4) The relocation of any sexually oriented business.

HEARING OFFICER:

The mayor of Town of Hideout or a designee of the mayor.

LICENSEE:

A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee", it shall mean the person in whose name the employee license has been issued.

OPERATE OR CAUSE TO OPERATE:

To cause to function or to put or keep in a state of doing business.  
OPERATOR: Any person on the premises



of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

**PARK:**

Public land which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the town which is under the control, operation or management of the town park and recreation authorities, including, but not limited to, existing parks and facilities: such as, but not limited to, trails, parking lots, playgrounds and ball fields.

**PECUNIARY COMPENSATION:**

Any commission, fee salary, tip, gratuity, profit, reward, or any other form of consideration.

**PERSON:**

An individual, proprietorship, partnership, corporation, association or other legal entity.

**PLACE OPEN TO PUBLIC VIEW:**

An area capable of observance by persons from the general community, where an expectation for privacy is not reasonably justified, and includes a dedicated roadway, sidewalk, a parking lot, any public way, a theater, a restaurant, a movie theater, any room in a hotel or motel other than a guestroom, or any other place where an expectation for privacy is not reasonably justified.

**PROTECTED USES:**

Churches, public libraries, public parks or parkways, public recreation centers, public and private schools, and any residence or

	residential district.
REGULARLY FEATURES OR REGULARLY SHOWN:	A consistent or substantial course of conduct such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.
SEMINUDE:	A state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and the female breast, as well as portions of the body covered by supporting straps or devices.
SEXUALLY ORIENTED BUSINESS:	An adult arcade, adult bookstore, adult motion picture theater, adult novelty store, adult theater, adult video store, adult cabaret, and adult motel.
SPECIFIED ANATOMICAL AREAS:	Includes: (1) Human male genitals in a state of sexual arousal; or (2) Less than completely and opaquely covered anus, anal cleft or cleavage, male or female genitals, or a female breast.
SPECIFIED CRIMINAL ACTIVITY:	Includes any of the following offenses as they are defined by applicable Utah state statute: (1) Prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement or racketeering, if such crimes are directly related to the operation of a sexually oriented business; sexual assault; molestation of a child; or distribution of a

controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction if the offenses were committed in the state of Utah, regardless of the exact title of the offense; for which:

(a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.

(2) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

**SPECIFIED SEXUAL ACTIVITY:**

Acts of, or simulating, masturbation, sexual intercourse, sexual copulation with a person or a beast, fellatio, cunnilingus, bestiality, pederasty, buggery, sodomy, and/or excretory functions as part of or in connection with any of the foregoing.

**TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS:**

Any of the following:

(1) The sale, lease or sublease of the business;

(2) The transfer of securities which constitutes a controlling interest in the business, whether by sale, exchange or similar means; or

(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business,

except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**VIEWING ROOM:**

The room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette or other video reproduction.

## **PART 2. LOCATION REGULATIONS**

### **3.08.201: ZONING:**

It is unlawful for any sexually oriented business to do business at any location within the town not zoned for such business. Businesses regulated by this chapter shall not be located closer than six hundred feet (600') to each other and not closer than six hundred feet (600') to protected uses.

### **3.08.202: SEXUALLY ORIENTED BUSINESS; ADDITIONAL LOCATION REQUIREMENTS:**

It is unlawful for any business licensed as a sexually oriented business to be located within six hundred feet (600') of a business licensed for the consumption of alcohol or liquor.

### **3.08.203: METHOD OF MEASUREMENT:**

The six hundred foot (600') limitation is measured from the nearest property line of the business regulated by this chapter to the nearest property line of the other sexually oriented business or business licensed for the sale or consumption of alcohol, or area of protected use.

### **3.08.204: SINGLE LOCATION AND NAME:**

It is unlawful:

(1) To conduct business under a license issued pursuant to this chapter at any location other than the licensed premises; or

(2) For any sexually oriented business to do business in the town under any name other than the business name specified in the application.

### **3.08.205: MOVING OF BUSINESS LOCATION:**

It is unlawful for any sexually oriented business, as regulated herein, to relocate or otherwise move its location or area of operation. A sexually oriented business wishing to relocate must submit the appropriate application for a license as required under this chapter. Such application shall be reviewed under the terms and conditions of this chapter and applicable town ordinances.

## **PART 3. LICENSING PROVISIONS**

### **3.08.301: BUSINESS CATEGORIES:**

The categories of sexually oriented businesses are adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, and adult theater.

### **3.08.302: HOURS OF OPERATION:**

All premises licensed to operate a sexually oriented business shall only operate between the hours of ten o'clock (10:00) A.M. and two o'clock (2:00) A.M. of the following day.

### **3.08.303: BUSINESS LICENSE REQUIRED:**

It is unlawful:

- (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the town pursuant to this chapter;
- (2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the town pursuant to this chapter;
- (3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business work permit pursuant to this chapter; or
- (4) Sexually oriented business licenses will be limited to one for each six thousand (6,000) residents of the town. Any available license will be issued on a first come, first serve basis.

### **3.08.304: BUSINESS LICENSE APPLICATION; DISCLOSURE:**

(1) If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, the application shall include the full legal name, address and state of incorporation of the business. Each officer, director, general partner, or other person who owns a controlling interest in the business, or who will participate directly in decisions relating to management and control of the business, shall sign the license application as an applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

(2) Upon filing a completed application for a sexually oriented business license or sexually oriented business work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the license.

(3) An application shall not be considered complete unless it contains the following information:

(a) The full legal name and any other names or aliases used by the applicant;

(b) The applicant's date and place of birth;

(c) Present business address and telephone number;

(d) Identification issued by a federal or state governmental agency with the individual's colored photograph, signature and physical description;

(e) Fingerprints on a form provided by a public safety department;

(f) The identity of each individual authorized by the corporation partnership or noncorporate entity to receive service of process. If the application is for a sexually oriented business license, the application shall be accompanied by a sketch or diagram showing the interior configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6").

(4) Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined in this chapter, and if so, the specified criminal activity involved; the date, place, and jurisdiction of each.

(5) In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license to operate a sexually oriented business on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises on which the business is or will be located.

### **3.08.305: LICENSE AND WORK PERMIT FEES:**

(1) Each applicant for a sexually oriented business license shall be required to pay a regulatory license fee as set forth in the consolidated fee schedule as adopted from time to time by the town council.

(2) This fee shall be in addition to the other licenses and fees required to do business in the town.

### **3.08.306: BUSINESS LICENSE TERM:**

A license shall be issued for a period not to exceed twelve (12) months. All sexually oriented business licenses shall expire on December 31 of each year regardless of when issued. The license fees required shall not be prorated for any portion of the year.

### **3.08.307: LICENSE DISPLAY:**

Any sexually oriented business located within the boundaries of the town must display the license granted pursuant to this chapter in a prominent public location within the business premises.

### **3.08.308: ISSUANCE OF BUSINESS LICENSE FOR SEXUALLY ORIENTED BUSINESS:**

(1) Under no circumstances shall the total time for the town to issue a license or issue a written intent to deny an application for a license exceed thirty (30) days from the receipt of a completed application. The business license official shall issue a license to the applicant unless the official finds one or more of the following to be true by a preponderance of the evidence:

- (a) The applicant is under eighteen (18) years of age, or any higher age, if the license sought required a higher age.
- (b) The applicant is overdue in payment to the town of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually oriented business.
- (c) The applicant has falsely answered a material question or request for information specifically authorized by this chapter.
- (d) The license fees required by this chapter have not been paid.
- (e) All applicable sales and use taxes have not been paid.
- (f) Each applicant must provide a statement of whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined in this chapter, and if so, the specified criminal activity involved, the date, place and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

(2) The license, if granted, shall state on its face the name of the person to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

### **3.08.309: TRANSFER OF OWNERSHIP OF BUSINESS LICENSE PROHIBITED:**

Sexually oriented business licenses granted under this chapter shall not be transferable.

### **3.08.310: CHANGE IN INFORMATION:**

The licensee shall submit, in writing, any change in the information required to be submitted under this chapter for either a sexually oriented business license or sexually oriented business work permit to the business license official within fourteen (14) days after such change.

## **PART 4. ADDITIONAL BUILDING REGULATIONS**



### **3.08.401: REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:**

A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, films, videocassettes, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas, shall comply with the following requirements. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The business license official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the business license official.

(4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (1) of this section.

(5) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle, as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(6) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(7) It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

(8) It shall be the duty of the operator, or of any employee who discovers two (2) or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.

(9) It shall be the duty of the operator, or of any employee who discovers an opening of any kind between viewing rooms, to immediately secure such rooms and prevent entry into them by any patron until such time as the wall between the rooms has been repaired, to remove the opening. Removal and repairing of openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

(10) It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.

(11) It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:

- (a) No loitering is permitted in viewing rooms;
- (b) The occupancy of viewing rooms is limited to one person;
- (c) Sexual activity on the premises is prohibited;
- (d) The making of openings between viewing rooms is prohibited;
- (e) Violators will be required to leave the premises; and
- (f) Violations of subsections (11)(b), (11)(c) and/or (11)(d) of this section are unlawful.

(12) It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.

(13) It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of, or permanently covered by, nonporous, easily cleanable material.

(14) It shall be the duty of the operator to ensure that the premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:

(a) The operator shall maintain a regular cleaning schedule of at least two (2) cleanings per day, documented by appropriate logs.

(b) The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to disposal, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.

(c) Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.

(15) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager stations. The view required in this subsection must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that a least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by the doors, curtains, walls, merchandise, display racks or other materials or enclosure at all times that any patron is present on the premises.

### **3.08.402: STAGE REQUIREMENTS:**

It shall be a violation of this chapter for an employee to knowingly or intentionally, in a sexually oriented business, appear in a state of seminudity, unless the employee is at least six feet (6') from patrons and customers and on a stage at least two feet (2') from the floor.

## **PART 5. EMPLOYEE REGULATIONS**

### **3.08.501: EMPLOYEE WORK PERMIT REQUIRED:**

It is unlawful for any person to act as a sexually oriented business employee, without first obtaining a sexually oriented business work permit, as specified in this part.

### **3.08.502: SEXUALLY ORIENTED BUSINESS EMPLOYEE WORK PERMITS:**

It is unlawful for any sexually oriented business to employ, or for any individual to be employed as, a sexually oriented business employee unless that employee first obtains a sexually oriented business employee work permit.

### **3.08.503: SEXUALLY ORIENTED BUSINESS EMPLOYEE WORK PERMIT APPLICATION; DISCLOSURE:**

(1) Upon the filing of a completed application for a sexually oriented business employee work permit, the business license official shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the town to deny or grant the work permit. An application shall be considered complete when it contains the following information:

- (a) The correct legal name of each applicant;
- (b) Present business address and telephone number;
- (c) Identification issued by a federal or state governmental agency with the individual's date of birth, colored photograph, signature and physical description;
- (d) The individual's fingerprints on a form provided by the public safety department; and
- (e) A statement for each applicant whether the applicant has been convicted of, or has pled guilty or nolo contendere to, a "specified criminal activity", as defined herein, and if so, the specified criminal activity involved, the date, place and jurisdiction of each. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section.

(2) A license or permit required by this chapter is in addition to any other licenses or permits required by the town, county or state to engage in the business or occupation. Persons engaged in the operation of an adult oriented business or in employment in an adult oriented business shall comply with all other applicable local, state and federal laws, ordinances and statutes, including zoning ordinances, as may be required.

(3) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the town on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection

with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the business license official.

### **3.08.504: STATE LICENSING EXEMPTION:**

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist or psychologist while providing professional services for which they are licensed, nor shall it apply to any educator licensed by the state for activities in the classroom.

### **3.08.505: SEXUALLY ORIENTED BUSINESS EMPLOYEE WORK PERMIT; ISSUANCE AND TERM:**

(1) Within thirty (30) days of the initial filing date of the receipt of a completed application, the business license official shall either issue a license or issue a written notice of intent to deny a license to the applicant. The business license official shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:

- (a) The applicant is less than eighteen (18) years of age;
- (b) The applicant has failed to provide information required for issuance of a license or has falsely answered a question or request for information on the application form;
- (c) The required license application fee has not been paid; or
- (d) The applicant has been convicted of a "specified criminal activity", as defined herein, or has been shown to have committed two (2) or more violations of section 3.08.509 of this chapter within the previous year.

(2) Sexually oriented business employee work permits may be obtained at any time throughout the year. All employee work permits shall expire on the last day of the twelfth month following issuance.

(3) Sexually oriented business licenses and sexually oriented business employee work permits may be renewed only by making application and payment of a fee as provided for in this chapter. Application for renewal should be made at least ninety (90) days before the expiration date of said licenses and work permits, and when made less than ninety (90) days before the expiration date, the expiration of the license or work permit will not be affected.

### **3.08.506: CHANGE IN EMPLOYEE INFORMATION:**

Any change in the information required to be submitted under this chapter for a sexually oriented business work permit will be given, in writing, to the business license official within fourteen (14) days after such change.

### **3.08.507: LICENSE FEES:**

Each applicant for a sexually oriented business employee work permit shall be required to pay yearly regulatory license fees pursuant to the consolidated fee schedule as adopted by the town council.

### **3.08.508: LICENSE DISPLAY:**

A sexually oriented business employee shall keep the employee's work permit on his or her person or on the premises where the licensee is then working and shall, while working on the sexually oriented business premises, produce such work permit for inspection upon request by a law enforcement officer or other town official performing functions connected with the enforcement of this chapter.

### **3.08.509: SEXUALLY ORIENTED BUSINESS EMPLOYEE CONDUCT:**

It is unlawful for any sexually oriented business licensee or sexually oriented business employee to knowingly or intentionally:

- (1) Allow persons under the age of eighteen (18) years, or the age of twenty one (21) years if required by any applicable alcohol ordinance, on the business premises;
- (2) Allow, offer or agree to gambling on the business premises;
- (3) Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;
- (4) Permit, commit, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor or commit activities harmful to the minor to occur on the licensed premises;
- (5) Permit, commit, offer or agree to permit any live specified sexual activity as defined by town ordinances or state statutes in the presence of any customer or patron;

- (6) Permit, offer or agree to, a patron or customer to masturbate within or upon the premises of a sexually oriented business;
- (7) Appear in a state of nudity before a patron on the premises of a sexually oriented business; or
- (8) Refuse to permit town officers or agents who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section. The provisions of this subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

### **3.08.510: ACTIVITIES OF PATRONS:**

It is unlawful for any patron to knowingly or intentionally:

- (1) Touch in any manner a sexually oriented business employee while the sexually oriented business employee is seminude;
- (2) Place any money or object on or within the costume or person of any sexually oriented business employee while the sexually oriented business employee is seminude; or
- (3) Appear in a state of nudity before another person on the premises of a sexually oriented business.

## **PART 6. GENERAL APPLICABILITY, ACTIONS FOR VIOLATIONS, DEFENSES**

### **3.08.601: APPLICABILITY OF REGULATIONS TO EXISTING BUSINESSES:**

- (1) The provisions of this chapter shall be applicable to all persons and businesses described in this chapter, whether the described activities were established before or after the effective date hereof, and regardless of whether such persons and businesses are currently licensed to do business in the town.
- (2) Upon adoption, the provisions of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on, or after

the effective date hereof. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

### **3.08.602: INJUNCTIONS:**

An entity or individual who, without a valid license, operates or causes to be operated a sexually oriented business or who employs or is employed as an employee of a sexually oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter, is subject to a suit for injunction in addition to the civil and criminal violations provided in this chapter, and any other remedy available at law or in equity.

### **3.08.603: SUSPENSION:**

The town shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The town shall issue a written letter of intent to suspend a sexually oriented business employee work permit if it is determined that the employee has knowingly violated this chapter.

### **3.08.604: REVOCATION:**

(1) The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if a cause of suspension as provided in section 3.08.605 of this chapter occurs and the license has been suspended within the preceding twelve (12) months.

(2) The business license official shall issue a written intent to revoke a sexually oriented business license or a sexually oriented business employee work permit if the official determines that a licensee or an employee, with the knowledge of the licensee:

- (a) Knowingly gave false or misleading information in the application or in any document or diagram related to the operation of the sexually oriented business;
- (b) Knowingly allowed possession, use or sale of controlled substances on the premises;



- (c) Knowingly allowed prostitution on the premises;
- (d) Knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (e) A licensee has been convicted, pled guilty, or pled nolo contendere to a "specific criminal activity", as defined in this chapter;
- (f) A licensee or an employee has knowingly allowed any specified sexual activity to occur in or on the licensed premises; or
- (g) A licensee is delinquent in payment to the town of taxes or fees related to the sexually oriented business.

(3) The fact that any conviction is being appealed shall have no effect on the revocation of the license.

(4) For the purposes of this chapter, an act by a sexually oriented business employee that constitutes grounds for revocation of that employee's work permit shall be imputed to the sexually oriented business for purposes of denial, suspension or revocation proceedings only if the hearing officer determines by a preponderance of evidence that an officer, director or general partner, or an employee who managed, supervised or controlled the operation of the business, knowingly allowed such act to occur on the sexually oriented business premises.

(5) When, after the notice and hearing procedure described in this chapter, the business license official revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation becomes effective; provided, that, if the conditions of section 3.08.605 of this chapter are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the enforcement officer finds that the basis for the revocation found in subsections (2)(a), (2)(d) and (2)(g) of this section has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsection (2)(b), (2)(c), (2)(e) or (2)(f) of this section, an applicant may not be granted another license until the appropriate number of years required under this chapter has elapsed.

### **3.08.605: HEARING, REVOCATION, LICENSE DENIAL, SUSPENSION; APPEAL:**

(1) If the business license official determines that facts exist for denial, suspension or revocation of a license under this chapter, the town shall notify the applicant or licensee (respondent) in writing of the town's intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail.

(a) The notification shall be directed to the most current business address or other mailing address on file with the business license official for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the business license official a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked.

(b) Within five (5) days of the receipt of respondent's written response, the business license official shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the hearing officer shall conduct a hearing, at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross examine any of the town's witnesses. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written opinion within five (5) days after the hearing. If a court action challenging the town's decision is initiated, the town shall prepare and transmit to the court a transcript of the hearing within ten (10) days after the issuance of the hearing officer's written opinion.

(c) If a written response from respondent is not received by the business license official within the time stated in subsection (1)(a) of this section or if, after a hearing, the hearing officer concludes that grounds as specified in this chapter exist for denial, suspension or revocation of the license, then such denial, suspension or revocation shall become final five (5) days after the hearing officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the hearing officer shall immediately withdraw the intent to deny, suspend or revoke the license and shall notify the respondent in writing by certified mail of such action. The hearing officer shall contemporaneously therewith issue the license to the applicant.

(2) An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. Upon the filing of any court action to appeal, challenge, restrain or otherwise enjoin the town's enforcement of the denial, suspension or revocation, the town shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the town's enforcement.

(3) Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses or de facto temporary licenses shall be subject to the applicable provisions of this chapter.

### **3.08.606: VIOLATION; PENALTY:**

In addition to revocation or suspension of a license as provided in this chapter, the violation of any provision of this chapter shall be a class B misdemeanor. Each day of a violation shall be considered a separate offense. The prosecuting agency shall have the discretion to charge any offense under this chapter as an infraction.

**CHAPTER 9**  
**RESERVED**

## **CHAPTER 10**

### **SPECIAL EVENT PERMITS**

#### **Section**

- 3.10.101: SPECIAL EVENT PERMIT REQUIRED:
- 3.10.102: APPLICATION FOR PERMIT:
- 3.10.103: APPLICATION FEE:
- 3.10.104: FEE WAIVER:
- 3.10.105: PROCESS AND STANDARDS FOR PERMIT APPROVAL:
- 3.10.106: INSURANCE REQUIREMENTS:
- 3.10.107: CASH OR SECURITY DEPOSIT:
- 3.10.108: ENFORCEMENT OF CHAPTER:
- 3.10.109: APPEALS:
- 3.10.110: SEVERABILITY OF CHAPTER:

#### **3.10.101: SPECIAL EVENT PERMIT REQUIRED:**

Any special event that creates a need for municipal coordination of parking, traffic flow, fire, police/security service and/or otherwise impacts the public health, safety and welfare or general peace and tranquility of the community beyond that which would be reasonably necessary and ordinarily anticipated relative to personal and individual use of public or private property, and in all cases where an admission fee is required, shall be required to apply for and be granted a special event permit for the specific event and its venue. Events, which occur in a series such as live performances, may apply for the entire series of special events under one special event permit.

#### **3.10.102: APPLICATION FOR PERMIT:**

Applications for special events shall be made in writing to the Town Clerk on forms available from the recorder's office. Applications must be completed and submitted to the Town recorder not less than sixty (60) days prior to the scheduled event. The application shall be signed by the person or group of people who is or are the organizers and with whom the responsibility for conduct of the event lays. The applicant must be a natural person or persons and not a corporation, corporate sponsor or business, or any other entity that is not a natural person. The application shall include:

- (1) Name and description of the event;
- (2) Name of the applicant;
- (3) Social security number of the applicant;

- (4) Geographical location of the event;
- (5) Proposed time and duration of the event;
- (6) Anticipated attendance at the event;
- (7) Anticipated traffic and parking impacts;
- (8) Anticipated necessity for public personnel, equipment and other public services at the event;
- (9) Proposed admission fee;
- (10) A photocopy of a temporary sales tax license from the state tax commission shall be attached to the application for the applicant and each entity offering goods for sale at the special event.

### **3.10.103: APPLICATION FEE:**

Applications for a special event permit shall be assessed a fee of one hundred dollars (\$100.00). Applications shall be considered incomplete unless and until the application fee is paid in full.

### **3.10.104: FEE WAIVER:**

The Town manager may waive all or a portion of the special event permit application fee upon a finding of eligibility pursuant to the following criteria:

- (1) Nonprofit status of the applicant;
- (2) No fee charged for the event;
- (3) Demonstration of hardship by the applicant.

### **3.10.105: PROCESS AND STANDARDS FOR PERMIT APPROVAL:**

(1) The Town Clerk shall submit the completed special event permit application to the public safety director and the public works director for department approval. The public safety director shall review and approve the special event permit to determine if the applicant adequately addresses crowd control, adequate parking, traffic control and all other public safety requirements. The public works director shall review and approve the special event permit to determine if the applicant adequately addresses sanitation and other public service needs.

(2) The applicant shall meet the following standards:

- (a) The safety, health, sanitation equipment and services or facilities are available to ensure that the event will be conducted without creating unreasonably negative impacts to the area and with due regard for safety and the environment.
- (b) Adequate off site parking will minimize substantial adverse impacts on general parking and traffic circulation in the vicinity of the event.
- (c) Any other services or facilities necessary are available to ensure compliance with Town noise, sign and other applicable ordinances.
- (d) The event shall not create the imminent possibility of violent disorderly conduct likely to endanger public safety or cause significant property damage.
- (e) The applicant demonstrates an ability and willingness to conduct the event pursuant to the terms and conditions of this chapter.

(3) After review and approval of the application by the public safety director and the public works director, the Town Clerk shall submit the application to the Mayor for approval. The Mayor shall review the application for compliance with this chapter and shall request any additional information and/or review by staff before approving and signing the application.

(4) The Mayor shall review and approve or deny the application within thirty (30) days of the receipt by the Town Clerk of a complete special event permit application, including all required submittals and fees.

### **3.10.106: INSURANCE REQUIREMENTS:**

Applicants shall provide proof of liability insurance in the amount required by the Town, and shall further name the Town as additional insured. The Town shall determine the amount of insurance required based upon the size and type of special event. All applicants shall further indemnify the Town from liability occurring at the event.

### **3.10.107: CASH OR SECURITY DEPOSIT:**

The Mayor is authorized to require an applicant to post a cash deposit or other security accepted by the Town attorney for all estimated contingent costs prior to the issuance of the special event permit, as a guarantee against fees, damages, cleanup or loss of public property.

### **3.10.108: ENFORCEMENT OF CHAPTER:**

(1) It is unlawful for the authorized special event representative to fail to take reasonable steps to promptly cure any notice of violation of this chapter. If the public safety director determines that a failure to cure a violation of this chapter creates a clear and present danger of immediate significant harm to life, public safety or property which cannot be reasonably mitigated, the applicant shall be promptly notified that the special event permit is revoked and that the special event must immediately cease and desist.

(2) Any person who willfully violates any provision of this chapter shall be guilty of a class B misdemeanor. Persons conducting special events without having first obtained a special event permit are subject to arrest and the event is subject to closure.

### **3.10.109: APPEALS:**

The applicant or any person aggrieved by a final decision, determination or requirement of the Mayor regarding a special event permit may appeal to the Town council. An appeal must be submitted in writing to the Town recorder within thirty (30) days of the Town manager's final decision on the special event permit application.

### **3.10.110: SEVERABILITY OF CHAPTER:**

If any provision or clause of this chapter or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision, clause or application hereof, and to this end the provisions and clauses of this chapter are declared to be severable.



# **TITLE 4**

## **HEALTH AND SANITATION**

Section	Chapter
Agricultural Operations	1
Nuisances	2
Hazardous Materials Emergencies	3

# **CHAPTER 1**

## **AGRICULTURAL OPERATIONS**

### Section

- 4.01.101: PURPOSE
- 4.01.102: NUISANCE LIABILITY
- 4.01.103: DISPOSAL, DUMPING OR DISCHARGING ONTO AGRICULTURAL LANDS

### **4.01.101: PURPOSE:**

It shall be the policy of the town to assist in the conservation of natural resources and scenic beauty, and to encourage the development and improvement of agricultural lands within its boundaries, for the production of food and other agricultural products. The town recognizes the important balance that must be maintained between interests in agricultural land and other competing land uses. It shall be the purpose of this chapter to provide, to the extent possible, for the reasonable protection of agricultural uses, specifically those aspects of an agricultural use, that tend to offend the senses, to the extent, the agricultural use is reasonably maintained according to sound agricultural practices, and conforms to federal, state and local ordinances and regulations.

### **4.01.102: NUISANCE LIABILITY:**

A. Agricultural operations that are consistent with sound agricultural practices are presumed to be reasonable and do not constitute a nuisance under this title, or a private nuisance, unless the agricultural operation has a substantial adverse effect on the public health and safety.

B. Agricultural operations undertaken in conformity with federal, state and town laws and regulations, including the town's zoning ordinances, are presumed to be operating within sound agricultural practices.

C. As used in this chapter, "agricultural operation" means any facility for the production for commercial purposes of crops, livestock, poultry, livestock products or poultry products.

#### **4.01.103: DISPOSAL, DUMPING OR DISCHARGING ONTO AGRICULTURAL LANDS:**

A. For the purpose of this section, "agricultural lands" shall mean those lands upon which a bona fide agricultural operation exists, or areas of vacant ground consisting of five (5) or more contiguous acres of land.

B. It shall be unlawful for any person to dump, discharge or dispose of any materials, including, but not limited to, garbage, refuse, trash, rubbish, hazardous waste, dead animals, sludge, liquid or semi-liquid waste, grasses, stubble, brush, tumble weeds, clippings and cuttings, vegetative waste, litter, filth, or refuse of any nature, kind or description, and to leave the same upon agricultural land.

C. Any person who is found guilty of violating this section, shall be guilty of a class B misdemeanor, and subject to the penalty therefor. Each day such violation is committed or permitted to continue, shall constitute a separate violation.

D. The town attorney may initiate legal action, civil or criminal, to abate any condition that exists in violation of this section.

E. In addition to other penalties imposed by a court of competent jurisdiction, any person found guilty of violating this section shall be liable for all expenses incurred by the town in removing or abating the nuisance and/or source of filth.

## **CHAPTER 2 NUISANCES**

### **Section**

4.02.101:	FINDINGS AND PURPOSE
4.02.102:	DEFINITIONS
4.02.103:	JURISDICTION
4.02.104:	RESPONSIBILITIES OF ENFORCEMENT OFFICER
4.02.105:	SCOPE
4.02.106:	CONDITIONS REQUIRING NOTICE PRIOR TO ABATEMENT
4.02.107:	UNSIGHTLY OR DELETERIOUS STRUCTURES OR OBJECTS
4.02.108:	GRAFFITI
4.02.109:	VEHICLE RESTORATION PERMIT
4.02.110:	NUISANCE CONDITIONS
4.02.111:	STANDARDS FOR WEED CONTROL
4.02.112:	NOTICE
4.02.113:	ABATEMENT BY ENFORCEMENT OFFICER
4.02.114:	AGRICULTURAL USES
4.02.115:	ALTERNATE METHODS OF COLLECTING PAYMENT
4.02.116:	COLLECTION BY LAWSUIT
4.02.117:	COLLECTION THROUGH TAXES
4.02.118:	RIGHT TO APPEAL
4.02.119:	CRIMINAL PROSECUTION

### **4.02.101: FINDINGS AND PURPOSE:**

A. The Town of Hideout council finds that conditions on real property in the town may constitute a nuisance in that these conditions:

1. Provide a breeding ground for insects and vermin;
2. Provide habitations for insects and vermin;
3. Create a fire hazard;
4. May attract children to unsafe areas; and
5. Detract from the attractiveness of neighborhoods in the town.

B. Such conditions include:

1. Storing of junk, garbage, trash, refuse, and solid waste on real property;

2. Allowing weeds and other vegetation to become overgrown or otherwise uncared for; and
3. Storing and maintaining abandoned or unsightly vehicles on real property.

C. It is the purpose of this chapter to:

1. Prevent fire hazards;
2. Prevent insect, rodent, and other vermin infestations;
3. Prevent induction of pollens into the air;
4. Prevent further spread of vegetation that threatens the public health, safety and welfare;
5. Abate the existence of conditions or objects, structures, or solid waste that threaten the public health, safety or welfare, or that create a public nuisance;
6. Prevent the continued existence of unsightly or deleterious objects and structures upon property resulting from lack of maintenance, repair, or cleaning; and
7. Enhance the appearance of property and reduce communication between criminal elements by elimination of graffiti on structures within the town.

D. This chapter accomplishes its purposes by:

1. Identifying conditions on real property which are considered nuisances;
2. Providing a procedure for abating these nuisances; and
3. Providing penalties for the violation of this chapter.

#### **4.02.102: DEFINITIONS:**

As used in this chapter, the following words shall have the following meanings unless clearly indicated otherwise by the context:

ABANDONED OR UNSIGHTLY  
VEHICLE:

A. Any vehicle which is inoperable by virtue of being wrecked, dismantled, partially dismantled or some similar condition.

B. A vehicle which is kept in an enclosed

structure out of sight of the general public shall not be considered abandoned for purposes of this chapter. For the purpose of this chapter, enclosed structure shall be a structure with four (4) walls and a roof and shall not include any type of fenced area.

C. A vehicle which is being repaired or restored pursuant to a restoration permit issued under this code shall not be considered abandoned for purposes of this chapter. An abandoned or unsightly vehicle shall not include a vehicle that is properly located in an approved area of a business engaged in the sale, repair or restoration of vehicles, provided such approval is granted as part of a conditional use permit with site plan approval of the planning commission and town council. A vehicle used in a lawful agricultural use shall not be considered abandoned or unsightly under this chapter. Where the status of the vehicle is in question, the enforcement officer shall make the determination.

ABATE:

To put an end to a condition which is considered to be a nuisance under the terms of this chapter.

ENFORCEMENT OFFICER:

The Mayor, the Mayor's designee, or enforcement officer or sheriff's deputy appointed to enforce the terms of this chapter.

ERADICATION:

The destruction of weeds by chemicals, cutting, disking, root removal, rototilling, or any other method approved by the enforcement officer.

GRAFFITI:

The unauthorized spraying of paint or marking of ink, chalk, dye, or other similar substances on public or private property or structures. For the purposes of Utah Code Annotated section 10-11-1, graffiti is deemed to be deleterious and unsightly.

OWNER:

Any person who, alone or jointly or severally with others:

A. Has legal title to any real property, premises, dwelling or dwelling unit, with or without accompanying possession; or

B. Has charge, care or control of any property, dwelling or dwelling unit, as legal or equitable owner, agent of the owner, lessee, as the executor, executrix, administrator, administratrix or guardian of the estate of the owner, or as trustee of any trust which owns the property.

PERSON:

An individual, public or private corporation and its officers, partnership, limited liability company, association, firm, trustee, executor or executrix of an estate, administrator or administratrix of an estate, the state of Utah or its departments, institution, bureau, agency, municipal corporation, county, town, political subdivision, or any other entity recognized by law.

PROPERTY:

Any form of real property, together with all improvements to the real property, such as:

A. Habitable structures,

B. Other structures,

C. All other items which are appurtenant to the property,

D. Visible or tangible objects on the property, such as hedges, other vegetation, and automobiles, and

E. Park strip contiguous to a parcel of property.

SOLID WASTE:

A. Garbage, refuse, trash, rubbish, junk, hazardous waste, dead animals, sludge, liquid or semi-liquid waste;

B. Spent, useless, worthless, or discarded materials;

C. Material stored or accumulated for the purpose of discarding the materials;

D. Materials which have served their original purpose and have become worthless or useless; or

E. Waste materials resulting from industrial, manufacturing, mining, commercial, agricultural, residential, institutional, recreational, or community activities.

F. The term "solid waste" does not include:

1. Solid or dissolved materials in domestic sewage or in irrigation return flows, or discharges for which a permit is required under the Utah water quality act, Utah Code Annotated section 19-5-101 et seq., or 2. Materials regulated under the federal water pollution control act, 33 United States Code section 1251 et seq.

G. Animal waste.

STRUCTURE:

Anything constructed or erected on property which is located above or below ground, specifically including, but not limited to, fences, wells, poles, buildings, homes, dwellings, and sheds.

UNSIGHTLY:

**Dilapidated**, ill-kept, or in despair to the extent that it is offensive to the visual sense to a reasonable person, in accordance with the findings and purposes of this chapter.

WEEDS:

A. Vegetation which poses a fire hazard;

B. Vegetation that is noxious, a nuisance or dangerous as reasonably determined by the enforcement officer;



C. Grasses, stubble, brush, tumbleweeds, clippings, and cuttings that endanger the public health and safety by creating:

1. A fire hazard,
2. A breeding ground for insects, rodents or other vermin, or
3. A habitation for insects, rodents or other vermin;

D. Poison ivy; or

E. Plants specified as noxious weeds in the Utah noxious weed act, Utah Code Annotated section 4-17-1 et seq., and any regulations promulgated under the Utah Noxious Weed Act.

F. Plants which are growing on a hillside with a slope of twenty five percent (25%) and which are necessary to stabilize the hillside or to prevent erosion of the hillside shall not be considered weeds.

#### **4.02.103: JURISDICTION:**

All enforcement of this chapter, including the issuing of notices and citations and abatement as described in this chapter shall be subject to the direction and control of the enforcement officer. The enforcement officer may call upon other town departments and employees in accomplishing the purposes of this chapter.

#### **4.02.104: RESPONSIBILITIES OF ENFORCEMENT OFFICER:**

The enforcement officer shall make inspections of property located within the town and may issue notices and citations under this chapter. The enforcement officer may also abate nuisances as described in this chapter.

A. Inspections:

1. The enforcement officer may make inspections on the property with the consent of the owner of property.

2. If the owner refuses to consent to an inspection, the enforcement officer may observe conditions on the property from a public place or from neighboring property with the consent of the owner of the neighboring property. The enforcement officer may issue a notice or a citation under this chapter based upon his observations from public property or from neighboring property.

3. If the owner refuses to consent to an inspection, the enforcement officer may obtain an administrative search warrant from an appropriate court to complete the inspection.

B. Records: The enforcement officer shall keep records of all of his enforcement activities and all facts which the enforcement officer shall find which relate to whether a particular property is in compliance with the terms of this chapter. During any period that the town provides its own enforcement, a property owner shall submit a request for records or reports to the enforcement officer, who shall provide the owner with a copy of the reports as required by law.

#### **4.02.105: SCOPE:**

It shall be unlawful for any person to fail to comply with any rule or regulation in this chapter, unless the failure is expressly waived by these rules and regulations.

#### **4.02.106: CONDITIONS REQUIRING NOTICE PRIOR TO ABATEMENT:**

It shall be unlawful for any owner of property within the town to maintain the following conditions on the owner's property. Before commencing abatement actions for these conditions or issuing a criminal citation pursuant to section 4.02.108, "Graffiti", of this chapter, the enforcement officer shall provide notice pursuant to section 4.02.112, "Notice", of this chapter.

A. Weeds on the property (including adjacent park strips, alleys, and street edges) which do not comply with the standards described in section 4.02.111, "Standards For Weed Control", of this chapter.

B. Cuttings from weeds left on the property.

C. Solid waste left on the property.

D. Vacant structures on the property which have not been secured.

E. Unsightly or deleterious objects or structures on the property.

F. Any graffiti on any structure located upon the property which is visible from the street or other public or private property.

G. Any abandoned or unsightly vehicles on the property. Abandoned or unsightly vehicles located on public property or in the public right of way shall not be subject to any notice requirement, but may be removed immediately by the town.

#### **4.02.107: UNSIGHTLY OR DELETERIOUS STRUCTURES OR OBJECTS:**

A. Unsightly or deleterious objects or structures on property which may be repaired so that they are no longer unsightly or deleterious shall be repaired or removed from the property. If the owner chooses instead to remove the objects or structures from the property, they shall be lawfully disposed of.

B. Unsightly or deleterious objects or structures on property which cannot be repaired so that they are no longer unsightly or deleterious shall be removed from the property and lawfully disposed of.

#### **4.02.108: GRAFFITI:**

Any graffiti on any structure located upon property which is visible from the street or other public or private property shall be removed or obliterated by the property owner.

#### **4.02.109: VEHICLE RESTORATION PERMIT:**

The town may issue vehicle restoration permits under this section for the purpose of allowing the owner of a vehicle which would otherwise be considered abandoned or unsightly, to repair or restore the vehicle.

A. A person wishing to obtain a vehicle restoration permit shall apply for a vehicle restoration permit on a form furnished by the town. The person shall pay a nonrefundable application fee at the time the person files the application as provided in the town's consolidated fee schedule.

B. The town's staff and the enforcement officer shall review the permit and determine whether the permit meets the standards of this section. The staff and the enforcement officer shall make a written recommendation to the town council regarding whether the permit should be approved or denied. The staff and the enforcement officer may recommend that the permit be approved, that it be approved with conditions, or that it be denied. If the staff and the enforcement officer recommend that it be approved with conditions, they shall include specific recommendations regarding the conditions which

should be imposed. After making the written recommendation, the staff and the enforcement officer shall refer the permit to the town council for final action.

C. In reviewing the permit, the town staff and the enforcement officer shall consider:

1. The amount of work which needs to be done on the vehicle;
2. Whether the applicant has the tools and expertise necessary to perform the repairs; and
3. Whether the work can appropriately be performed in the area where the property is located. If the property is a rental property, the property owner must also agree to the terms of, and sign the permit.

D. The town council shall review the permit at its next regularly scheduled meeting after it receives the recommendation from the town staff and the enforcement officer. The applicant shall be notified of the time, date, and place of the meeting at which the permit will be reviewed.

E. In reviewing the permit, the town council shall not be bound by the recommendations of the staff and the enforcement officer. The council may approve the application, deny the application, or approve the application with conditions. If the council approves the permit with conditions, it need not impose the same conditions recommended by the staff and the enforcement officer.

F. Vehicle restoration permits are good for six (6) months. The holder of a vehicle restoration permit may extend the permit for additional terms of six (6) months each by making an application to the town. Only two (2) permits per household, per year may be obtained. Additional extensions may be granted as required to complete the restoration, by making application to the town.

1. The enforcement officer shall grant the renewal of the permit if the applicant demonstrates that work is progressing on the vehicle.
2. A vehicle which has not been repaired or restored by the expiration of the permit or any extension shall be removed from the property, stored in a covered area or be operable with current registration and inspection.
3. Permit shall extend only to the vehicle listed in the permit.
4. The permit must be placed in a clear and visible location on the vehicle being restored.

G. Vehicles being repaired or restored under a vehicle restoration permit shall be:

1. Covered with an appropriate car cover when no work is being performed on the vehicle.
2. Parked on an approved hard surface.
3. Placed such that no parts from the vehicle may be stored in the yard except where they originated, in or on the vehicle itself.
4. Repaired or stored but in no case shall sanding or body painting be allowed at a residence.

H. The permit fee described in this section shall be set by resolution of the town council.

#### **4.02.110: NUISANCE CONDITIONS:**

The following conditions on real property shall constitute a nuisance under this chapter and the enforcement officer may abate these conditions or issue a criminal citation to the owner under section 4.02.119, "Criminal Prosecution", of this chapter with or without providing notice as provided in section 4.02.112, "Notice", of this chapter:

- A. Vegetation on private property which, due to its proximity to any public property or right of way interferes with the public safety or lawful use of the public property or right of way, or interferes with the town's clear view as defined in this code.
- B. Weeds on property (including abutting park strips, alleys, or street edges) which have grown to a height exceeding six inches (6") or which have grown on or over a sidewalk.
- C. An accumulation of weeds, solid waste, structures, or other objects on the property which is detrimental to health.
- D. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a fire hazard.
- E. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a source of contamination or pollution of water, air, soil or property.
- F. An accumulation of weeds, solid waste, structures, or other objects on the property which has become a breeding place or habitation for insects, rodents, or other vermin.
- G. Weeds determined to be especially injurious to public health, crops, animals, land, or other property.

#### **4.02.111: STANDARDS FOR WEED CONTROL:**

Weeds shall be maintained at a height of not more than six inches (6") at all times and cuttings must be promptly cleared and removed from the property.

A. Weeds must be eradicated by chemicals, cutting or other acceptable means so that they do not exceed six inches (6") in height.

B. Weeds that are rototilled, disked, or removed by the root must be buried under the soil, removed from the property, or composted.

C. If the enforcement officer determines that the large size of the property makes the eradication of all weeds impractical, the enforcement officer may limit the required eradication of weeds to create a firebreak of not less than twenty five feet (25') in width around any structures and around the complete perimeter of the property.

D. Property which is not in close proximity to buildings or does not create a serious nuisance or fire hazard may be exempted by the enforcement officer from the weed control requirements described in this section. The enforcement officer shall issue any such exemption in writing and shall review all exemptions under this subsection annually.

#### **4.02.112: NOTICE:**

If the enforcement officer has inspected any property and determined that the property is in violation of the standards described in section 4.02.106, "Conditions Requiring Notice Prior To Abatement", of this chapter or has reasonable grounds to believe that the property is in violation of the standards described in section 4.02.106, "Conditions Requiring Notice Prior To Abatement", of this chapter, he shall give notice of the violation to the owner of the property. If the enforcement officer has inspected any property and determined that the property is in violation of the standards described in section 4.02.110, "Nuisance Conditions", of this chapter, or has reasonable grounds to believe that the property is in violation of the standards described in section 4.02.110, "Nuisance Conditions", of this chapter, he may, but shall not be required to, give notice of the violation under this section. For violations of the standards described in section 4.02.110, "Nuisance Conditions", of this chapter, the enforcement officer may proceed directly to issue a citation under section 4.02.119, "Criminal Prosecution", of this chapter or to the abatement procedures described in section 4.02.113, "Abatement By Enforcement Officer", of this chapter.

A. A notice under this section shall:

1. Describe the property by address. If the property has no address, the notice shall describe the property with sufficient specificity to identify the property.

2. Describe all violations which the enforcement officer found or for which he has reasonable grounds to believe that the violation exists on the property.

3. Describe the remedial actions which the owner should take to avoid a citation under section 4.02.119, "Criminal Prosecution", of this chapter or an abatement under section 4.02.113, "Abatement By Enforcement Officer", of this chapter.

4. Give the owner a reasonable time (which shall be expressed as a number of days from the date of the notice) to address the violations. In the alternative, the notice may state that remedial action should be commenced within a reasonable time (which shall be expressed as a number of days from the date of the notice) and continue without interruption until the work is completed. In the case of graffiti, the owner shall be given no more than ten (10) days from the date of the notice to remove or obliterate the graffiti.

B. The enforcement officer shall serve the notice upon the owner of the property. Service shall be complete if the notice is served in one of the following ways:

1. Served on the owner in person; or

2. Sent by mail, postage prepaid, to the last known address of the owner. In determining the last known address of the owner, the enforcement officer may rely on the ownership information available from the Wasatch County recorder. If the notice is mailed under this subsection B2, the owner shall have three (3) additional days to comply with the notice.

3. The enforcement officer shall not be required to provide an owner more than one notice for the eradication of weeds in any calendar year.

#### **4.02.113: ABATEMENT BY ENFORCEMENT OFFICER:**

A. If a condition exists on property in violation of this chapter, the enforcement officer may, in addition to taking legal action:

1. Undertake or cause the eradication and removal of weeds;

2. Undertake or cause the removing of solid waste;

3. Undertake or cause the securing of any vacant structure;

4. Maintain or repair any unsightly or deleterious objects or structures which may be made not unsightly or deleterious by repair;

5. Remove and lawfully dispose of any unsightly or deleterious objects or structures;

6. Cover, clean, remove or obliterate any graffiti; or

7. Undertake or cause the removal of any abandoned or unsightly vehicle.

B. Before undertaking abatement under this section for a violation of section 4.02.106, "Conditions Requiring Notice Prior To Abatement", of this chapter, the enforcement officer shall provide notice as provided in section 4.02.112, "Notice", of this chapter. The enforcement officer may not commence abatement under this section until the time described in the notice for the owner to take action on the violations has expired.

C. In abating any unsightly or deleterious objects or structures under this section, the enforcement officer shall be under no obligation to make repairs if the enforcement officer determines that the abatement may be completed more quickly or more cost effectively by removing and disposing of the structure or object.

D. Upon completion of abatement under this section, the enforcement officer shall:

1. Prepare an itemized statement of all costs, including administrative expenses of the abatement; and

2. Serve a copy of the itemized statement on the owner, together with a demand that the owner pay the amount shown on the itemized statement to the town within twenty (20) days of the date of service.

E. Service of the itemized statement shall be made in the same way as service of a notice under section 4.02.112, "Notice", of this chapter.

#### **4.02.114: AGRICULTURAL USES:**

A lawful agricultural use, located in a zone allowing for such use, may be exempt from the requirements of this chapter where the use does not create a health or safety hazard as determined by the ordinance enforcement officer.

#### **4.02.115: ALTERNATE METHODS OF COLLECTING PAYMENT:**

If the enforcement officer abates a condition on real property under section 4.02.113, "Abatement By Enforcement Officer", of this chapter and the owner fails to pay the costs of the abatement, the town may either:

A. Cause suit to be brought in an appropriate court of law to recover the costs of the abatement; or



B. Refer the matter to the county treasurer to include the costs of the abatement in the property taxes pursuant to Utah Code Annotated section 10-11-4.

#### **4.02.116: COLLECTION BY LAWSUIT:**

If the owner fails to pay the expenses of an abatement under section 4.02.112, "Notice", of this chapter, within twenty (20) days of the demand under section 4.02.113, "Abatement By Enforcement Officer", of this chapter, the town may file suit in an appropriate court and recover judgment for the costs of the abatement, together with all cost of court, reasonable attorney fees, other costs of collection and interest. The town may execute on the judgment as provided by law.

#### **4.02.117: COLLECTION THROUGH TAXES:**

If the owner fails to pay the expenses of an abatement under section 4.02.112, "Notice", of this chapter, the town may refer the matter to the county treasurer for inclusion on the tax notice to the property owner. If the town chooses to pursue collection through the tax notice, the enforcement officer shall prepare an itemized statement of all expenses incurred in the abatement action and deliver four (4) copies to the county treasurer. The code enforcement officer shall deliver three (3) copies of the statement to the county treasurer within ten (10) days after the expiration of the twenty (20) day notice provided for in section 4.02.113 of this chapter, for collection by the county treasurer pursuant to state law.

#### **4.02.118: RIGHT TO APPEAL:**

Within ten (10) calendar days of receiving a notice under section 4.02.112, "Notice", of this chapter, the owner or any other person aggrieved by the notice may request a hearing before the board of adjustment in writing.

A. At any hearing under this section, the issue shall be whether the enforcement officer was justified in issuing the notice. The board of adjustment shall sustain the issuance of the notice if it finds, by a preponderance of the evidence, that there was substantial evidence to support the enforcement officer's belief that a nuisance which would be regulated under this chapter existed on the property.

B. The board of adjustment shall hold a hearing on the appeal within thirty (30) days after the request is received. At least ten (10) days before the hearing, the board of adjustment shall send notice to the person filing the appeal of the date, time, and place of the hearing.

C. At the hearing, the enforcement officer shall first present the reasons for issuing the notice.

1. The enforcement officer may testify himself regarding the reasons for the issuance of the notice. As part of his testimony, the enforcement officer may present photographs, maps and any other evidence regarding the condition of the property, the existence of nuisances regulated by this chapter on the property and any other issues relevant to his decision to issue a notice.

2. The enforcement officer may call additional witnesses regarding the condition of the property and the existence of nuisances regulated by this chapter on the property.

3. In an appropriate case, the enforcement officer may be assisted by the town's attorney in the presentation of his arguments in support of the notice.

D. After the enforcement officer has completed his presentation regarding the reason for issuing the notice, the person filing the appeal may present his arguments as to why he feels the notice was not justified.

1. The person filing the appeal shall have the right to testify, to present photographs, maps or other documents, and to call witnesses on his own behalf to support his contention that the notice is improper.

2. The person filing the appeal may call additional witnesses to support his contentions in the hearing.

3. The person filing the appeal shall have the right to be represented by an attorney of the person's choice. Under no circumstances, however, will the town have an obligation to provide counsel for a person filing an appeal under this section.

E. Following the presentation of the person filing the appeal, the enforcement officer shall have an opportunity to present arguments and evidence to rebut anything presented by the person filing the appeal.

F. During the hearing on the appeal, the board of adjustment may visit the property. By filing an appeal under this section, the owner consents to the board of adjustment's entry onto the property for the purpose of inspecting the property. The hearing may be temporarily adjourned to facilitate a visit to the property, but no such adjournment may be for longer than ten (10) days without the consent of the person filing the appeal.

G. The Utah rules of evidence shall not apply to any hearing under this section.

1. The board of adjustment is specifically authorized to accept evidence which would be hearsay under the rules of evidence.

2. The board of adjustment may reject any evidence which it finds is not relevant to the issues outlined in subsection A of this section.

3. The board of adjustment may reject any evidence if it determines that the evidence's probative value is substantially outweighed by its inflammatory or prejudicial effect.

H. The board of adjustment may make its decision on the appeal at the meeting or it may take the matter under advisement. If the board of adjustment makes a decision at the meeting, the decision (including the vote) shall be recorded in the meeting minutes. If the board of adjustment takes the matter under advisement, it shall issue a written decision on the matter within ten (10) days following the close of the hearing. The written decision shall become part of the record on the appeal. A copy of the written decision shall be sent to the person filing the appeal and to his attorney, if any.

I. The board of adjustment may sustain, modify, or reverse the decision of the enforcement officer and may make amendments to the notice which it finds to be proper.

J. An appeal from a decision of the board of adjustment may be made within thirty (30) days to the district court.

#### **4.02.119: CRIMINAL PROSECUTION:**

A violation of the provisions of this chapter shall be a class B misdemeanor.

A. No criminal action for a violation of section 4.02.106, "Conditions Requiring Notice Prior To Abatement", of this chapter, may be brought until the enforcement officer has delivered a notice to the owner of the property under section 4.02.112, "Notice", of this chapter. A criminal action for a violation of section 4.02.110, "Nuisance Conditions", of this chapter, may be brought without first providing the owner with a notice. For violations of section 4.02.110, "Nuisance Conditions", of this chapter, the enforcement officer may provide a notice pursuant to section 4.02.112, "Notice", of this chapter, but a criminal prosecution may proceed regardless of whether a notice was provided or not.

B. Each day a violation is committed or permitted to continue shall constitute a separate violation.

C. The town attorney may initiate legal action, civil or criminal, requested by the enforcement officer to abate any condition which exists in violation of these rules and regulations.

D. In addition to any other penalties the court may impose for a violation of this chapter, the town shall be entitled to recover the costs of any abatement of conditions on the property.

## **CHAPTER 3**

### **HAZARDOUS MATERIALS EMERGENCIES**

#### **SECTION**

- 4.03.101: DEFINITIONS
- 4.03.102: POWER TO RESPOND
- 4.03.103: RECOVERY AUTHORIZATION AND PROCEDURE

#### **4.03.101: DEFINITIONS:**

As used in this chapter:

EXPENSES:	Actual labor costs of government and volunteer personnel, including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operations, cost of material and the cost of any contract labor and material.
HAZARDOUS MATERIALS EMERGENCY:	A sudden and unexpected release of any substance that because of its quality, concentration or physical, chemical or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

#### **4.03.102: POWER TO RESPOND:**

The town is hereby empowered to respond to and mitigate any hazardous materials emergency that occurs within the confines of the town or which otherwise threatens the confines of the town, unless the town is otherwise prohibited by law.

#### **4.03.103: RECOVERY AUTHORIZATION AND PROCEDURE:**

A. Authority; Collection: The town is hereby empowered to recover expenses from any person whose conduct was at a minimum grossly negligent and resulted in a fire to which the town and/or assisting agencies responded. The town is hereby empowered to recover

expenses from any person who is determined by the town to be a responsible party in any hazardous materials incident to which the town and/or assisting agencies responded. The recoverable expenses in this section shall be limited to those directly associated with the subject fire/hazardous materials emergency/incident. These expenses shall be collected as follows:

1. The town shall determine responsibility for the emergency and notify the responsible party in person or by mail of the town's determination of responsibility and the expenses to be recovered.
2. The notice shall specify that the determined responsible party may appeal the town's determination, in writing, to the mayor, who may designate a hearing officer to hear the appeal.
3. Any appeal must be filed, in writing, with the mayor not more than fifteen (15) days from the date the notice was received by the determined responsible party.
4. In the event the determined responsible party appeals the determination, the hearing officer shall hold a public hearing to consider any issues raised by the appeal. Both the appealing party and the town shall be entitled to present evidence in support of their respective positions to the hearing officer.
5. Following the hearing, the hearing officer shall make a recommendation to the mayor, who shall issue a final decision assessing responsibility and expenses.

B. Payment Does Not Admit Liability: The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages.

C. Responsible Party Defined: For the purposes of this section, "responsible party for hazardous materials incidents", shall mean:

1. Any person, corporation, partnership or other individual or other entity who caused such an incident, directly or indirectly, solely or jointly.
2. The individual or entity responsible for transporting the spilled hazardous materials.
3. The owner or possessor of the hazardous materials involved in the incident.
4. The property owner of the site of a hazardous materials incident.

D. Action To Recover Expenses:

1. Subsequent to a final decision of the mayor, pursuant to this section, and upon certification of expenses by the fire chief to the mayor, the mayor may authorize

the town attorney to recover the expenses directly associated with responding to a fire/hazardous materials emergency from those persons determined by the mayor to have directly or indirectly caused the emergency expenses.

2. In the event the person determined to be responsible for the payment of intentional or grossly negligently caused fire or any hazardous materials incident expenses fails to make payment to the town and/or assisting agencies within thirty (30) days after a determination of any appeal to the mayor, or thirty (30) days from the deadline for appeal in the event no appeal is filed, the town and/or assisting agency may initiate legal action to recover from the determined responsible person the expenses determined to be owing, including the reasonable attorney fees and costs of such recovery.

**TITLE 5**  
**PUBLIC SAFETY**

Subject	Chapter
General	1
Offenses	2
Minors	3
Fireworks	4
Animal Control	5

# **CHAPTER 1**

## **GENERAL**

### Section

- 5.01.101: INTERNATIONAL BUILDING CODE ADOPTED
- 5.01.102: JURISDICTION OF OFFENSES
- 5.01.103: CONTINUING VIOLATION

### **5.01.101: INTERNATIONAL BUILDING CODE ADOPTED:**

All provisions of the International Building Code are hereby adopted in their entirety, including all subsequent amendments, modifications or alterations which may be enacted after the effective date hereof. At such time as said amendment, modification or alteration becomes effective, said amendment, modification or alteration shall be deemed to automatically supersede the prior provision of the International Building Code for the purposes of this section and said amendment, modification or alteration shall be incorporated herein.

### **5.01.102: JURISDICTION OF OFFENSES:**

- (1) A person is subject to prosecution in this town for an offense which he commits while either within or outside the town by his own conduct or that of another for which he is legally accountable if:
  - (a) The offense is committed either wholly or partly within this town;
  - (b) The conduct outside this town constitutes an attempt within this town;
  - (c) The conduct outside this town constitutes a conspiracy to commit an offense within this town and an act in furtherance of the conspiracy occurs in this town; or
  - (d) The conduct within this town constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under this code and such other jurisdiction.
- (2) An offense is committed partly within this town if either the conduct which is an element of the offense, or the result which is such an element, occurs within this town.
- (3) An offense which is based on an omission to perform a duty imposed by this code is committed within this town regardless of the location of the offender at the time of the omission.



### **5.01.102: CONTINUING VIOLATION:**

In all instances where the violation of these ordinances or any ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

## **CHAPTER 2 OFFENSES**

Section

5.02.101: UTAH CRIMINAL CODE ADOPTED

### **5.02.101: UTAH CRIMINAL CODE ADOPTED:**

All criminal provisions of the Utah code are hereby adopted in their entirety, including all subsequent amendments, modifications or alterations which may be enacted after the effective date hereof. At such time as said amendment, modification or alteration becomes effective, said amendment, modification or alteration shall be deemed to automatically supersede the prior provision of the Utah code for the purposes of this section and said amendment, modification or alteration shall be incorporated herein.

## **CHAPTER 3 MINORS**

### **Section**

5.03.101: CURFEW

5.03.102: DAYTIME LOITERING OF JUVENILES ON SCHOOL DAYS

### **5.03.101: CURFEW:**

It shall be unlawful for any person under the age of sixteen (16) years to be or remain in or upon any of the streets, alleys or public places or vacant lots within the town at night between the hours of eleven o'clock (11:00) P.M. and four o'clock (4:00) A.M. the following day, unless such person is accompanied by parent, guardian or other person having legal custody of such minor person or whose employment makes it necessary to be upon the streets during the nighttime after the specified hour and it shall be unlawful for any person under the age of eighteen (18) years to be or remain in or upon any of the streets, alleys or public places or vacant lots within the limits of the town at night between the hours of twelve o'clock (12:00) midnight and four o'clock (4:00) A.M. the following day, unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person, or whose employment makes it necessary to be upon the streets during the nighttime after said specified hour.

### **5.03.102: DAYTIME LOITERING OF JUVENILES ON SCHOOL DAYS:**

A. Definitions: For the purposes of this section:

ADULT:	Any person not a "juvenile", as defined in this subsection that is eighteen (18) years of age or older or who is sixteen (16) years of age or older and is not subject to the state's compulsory education law.
EMERGENCY:	Includes, but is not limited to, fire, natural disaster, automobile accident, or requirement for immediate medical care for another person.
JUVENILE:	Any person who is subject to the state's compulsory education law or who is eighteen (18) years of age or older and enrolled in public education.
LOITER:	Subject to the defenses contained in subsection C

of this section and for purposes of this section only, to "loiter" means to be absent from school when school is in session without permission from a parent or school official.

PARENT:

A person who is the natural or adoptive parent of a person. "Parent" includes a court appointed guardian or other person eighteen (18) years of age or older authorized by the parent, by a court order, or by a court appointed guardian to have the care and custody of the person.

B. Offenses:

1. It is unlawful for any juvenile who is subject to compulsory education to loiter during the hours that school is in session for that juvenile.
2. It is unlawful for a juvenile not enrolled in the public schools of the county or an adult to encourage or assist a student not to attend or return to school unless the absence is excused by a school official or such absence is excused under one of the defenses found in this chapter.

C. Defenses: It is a defense to prosecution under this section:

1. When the juvenile is accompanied by a parent;
2. When the juvenile is on an emergency errand directed by a parent;
3. When the juvenile is going to, or coming from, their place of school approved employment;
4. When the juvenile is going to, or coming from, a medical appointment;
5. When the juvenile has permission to leave the school campus for lunch or a school sponsored activity, or has in their possession a valid, school issued, off campus permit;
6. When the juvenile is going to, or coming from, another education program activity such as DATC, early college or an internship;
7. When the juvenile is attending, or without any detour or stop, going to or returning from, an official school, religious, government sponsored activity supervised by adults and sponsored by the town or county, or a civic organization, the school district, religious, or other government organization.

D. Enforcement Procedure:

1. Upon any violation of subsection B of this section, a peace officer may issue a written warning to the juvenile and may transport the juvenile home or to the school from which the juvenile is absent. The parent shall be advised in writing by law enforcement officials or their designee that the juvenile was warned for a violation of this section. Such written notice shall notify the parents of their responsibility and liability as the juvenile's parents.

2. If a juvenile has been previously warned as set forth in this section, a peace officer will issue a citation for an infraction.

3. When a juvenile has previously been issued a warning and two (2) citations for an infraction as set forth in subsection B1 of this section upon any subsequent violation, a peace officer will issue a citation for a class C misdemeanor to the juvenile to appear in court.

#### E. Penalty:

##### 1. Penalties Under Subsection B1 Of This Section:

a. A juvenile will be given a written warning on the first violation of subsection B1 of this section.

b. A juvenile guilty of a second violation of subsection B1 of this section may either pay a fine of fifty dollars (\$50.00) or attend youth court in the county. This violation is considered an infraction.

c. A juvenile guilty of a third violation of subsection B1 of this section is guilty of an infraction. The fine is one hundred dollars (\$100.00).

d. A juvenile guilty of subsequent violations of subsection B1 of this section will be fined two hundred fifty dollars (\$250.00) and charged with a class C misdemeanor.

e. The enforcement procedures and penalties return to the first step upon each new school year.

##### 2. Penalties Under Subsection B2 Of This Section:

a. Upon any violation of subsection B2 of this section, the person will be given a written warning. On subsequent violations of this section, a peace officer will issue a citation.

b. A person guilty of a violation of subsection B2 of this section will be fined one hundred dollars (\$100.00). Subsequent violations will be

charged as a class C misdemeanor with a fine of two hundred fifty dollars (\$250.00).

## **CHAPTER 4 FIREWORKS**

### **Section**

- 5.04.101: STATE PROVISIONS ADOPTED BY REFERENCE
- 5.04.102: ENFORCEMENT
- 5.04.103: SALES
- 5.04.104: PUBLIC DISPLAY OR SPECIAL EFFECTS; PERMIT REQUIRED
- 5.04.105: PROHIBITED ACTS AND ACTIVITIES
- 5.04.106: AUTHORITY OF TOWN TO PROHIBIT DISCHARGE
- 5.04.107: CONFLICTING PROVISIONS

### **5.04.101: STATE PROVISIONS ADOPTED BY REFERENCE:**

This chapter includes, but is not limited to, sections of the Fire Prevention and Fireworks Act found in Utah Code Annotated title 53, chapter 7, part 2, and sections of the County and Municipal Fireworks Act found in Utah Code Annotated Title 11, Chapter 3, which sections are, by this reference, adopted as town ordinances. Each section of the Fire Prevention and Fireworks Act adopted by this reference shall have a new section number as determined by this present chapter. The following subsections are adopting those provisions by reference.

- A. Definition Of Terms: Adopting Utah Code Annotated section 53-7-202.
- B. Restrictions On Sale Or Use Of Fireworks: Adopting Utah Code Annotated section 53-7-222.
- C. Times For Sale And Discharge Of Fireworks: Adopting Utah Code Annotated section 53-7-225.
- D. Exemptions: Adopting Utah Code Annotated sections 11-3-10 and 53-7-221.
- E. Penalties: Adopting Utah Code Annotated sections 11-3-11 and 53-7-226.
- F. State Fire Prevention Board Rules: Rules, specifications, standards or requirements promulgated by the Utah fire prevention board as permitted or required by the various sections of the fire prevention and fireworks act (Utah Code Annotated section 53-7-201 et seq.), are included and adopted as part of this chapter.

### **5.04.102: ENFORCEMENT:**

The fire chief, the chief's designee, peace officers and special function officers authorized by the town within those capacities, are hereby authorized to enforce this chapter, and the applicable provisions of the Fire Prevention and Fireworks Act and the County and Municipal Fireworks Act within Utah Code Annotated.

### **5.04.103: SALES:**

#### **A. Permit Required; Application:**

1. No person shall offer for sale or sell, at retail, any fireworks without a permit countersigned by the fire chief. A separate permit shall be required for each separate sales location, and for each of the following time periods: June 20 through July 25, inclusive; December 20 through January 2, inclusive; and fifteen (15) days prior to and through the Chinese new year inclusive. The fee for each permit shall be as set forth in the consolidated fee schedule. Each permit shall remain in effect for the specified time period unless the permittee violates a provision of this chapter, in which event the permit may be revoked. Applications for a permit to sell fireworks shall be in writing on the "application for sales of fireworks" form and shall:

- a. Include the name and address of the person, firm or corporation applying for the permit;
- b. Describe the specific location where fireworks will be sold;
- c. Include evidence of commercial general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate; and
- d. Include any other information reasonably required by the fire department.

2. All of the above required information, including fees, shall be submitted no less than fourteen (14) days prior to the specified time period. However, if the permit application is for a location for which a conditional use permit has not been issued or is no longer valid, both permit applications shall be submitted no less than five (5) weeks prior to the desired time period for the sale of fireworks. The applicable and required fees shall accompany the permit application and be submitted at the time of application.

#### **B. Sales Locations: Retail sales of fireworks shall be permitted within a permanent structure in connection with an applicable and properly issued business license which is in effect pursuant to provisions of Title 3, Chapter 1 of this code, or, from a temporary stand, or trailer or tent. Retail sales of fireworks shall be allowed only at locations within the commercial, manufacturing and industrial zoning districts. Sales**



both in permanent structures and in temporary stands, or trailers or tents, shall be subject to the following requirements:

1. No sales of fireworks shall be permitted from stands, trailers or tents located within one hundred feet (100') of any other building, nor within one hundred feet (100') of any gasoline pump or dispensing device, or other combustibles. No sales of fireworks shall be permitted from permanent structures located within fifty feet (50') of any gasoline pump or dispensing device, or other combustibles.
2. Fireworks stands, trailers or tents need not comply with the provisions of the international building code, however, all stands, trailers or tents shall be erected in a manner that will reasonably assure the safety of attendants and patrons.
3. Each stand, trailer or tent shall not have in excess of four hundred fifty (450) square feet of floor space, and each stand, trailer or tent shall have not less than two (2) exits, each of which must be at least thirty six inches (36") in width.
4. A sign prohibiting the discharge of any fireworks within one hundred feet (100') of the fireworks stand, trailer or tent shall be prominently displayed.
5. All employees on duty at all times shall be at least eighteen (18) years of age or older. Fireworks shall be sold only as packaged units with displays to be arranged so as to prevent the touching or handling of nonpackaged fireworks.
6. Displays of fireworks in permanent structures shall be within constant visual observation.
7. Fireworks stands, trailers or tents shall be removed within seven (7) days after retail sales cease.
8. Prior to the issuance of a permit, each applicant shall file with the town a cash deposit in an amount set forth in the consolidated fee schedule for each retail sales location to assure compliance with the provisions of this section, including, but not limited to, the removal of the stand, trailer or tent and the cleaning of the site. In the event the permittee does not comply with the provisions of this chapter or remove the stand, trailer or tent, or clean the site thereof, the town may remove the stand, trailer or tent and clean the site or cause the same to be done by other persons and the reasonable cost thereof shall be a charge against the permittee and shall be subtracted from the bond described above.
9. No person shall be permitted to sleep in the fireworks stand or trailer overnight.

#### **5.04.104: PUBLIC DISPLAY OR SPECIAL EFFECTS; PERMIT REQUIRED:**

A. Permit Application: No person shall discharge any display or special effects fireworks without first obtaining a permit countersigned by the fire chief. A separate permit will be required for each public display or special effects event. The fee for a single permit is as set forth in the consolidated fee schedule. Application for this permit shall be in writing on the application form "public display or special effects fireworks" and shall:

1. Include the name, address and telephone number of the person, firm, entity or corporation applying for the permit;
2. Describe the specific location of the discharge, display, fallout and spectator locations;
3. Include evidence of commercial general liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00), aggregate;
4. Describe a plan for monitoring weather conditions, crowd control and contingency plans for adverse or changing conditions;
5. Include any additional information reasonably required by the town.

B. Time Limit For Submission; Exemptions: The above information shall be submitted to the fire chief at least fourteen (14) days prior to the planned discharge of display or special effects fireworks. Governmental subdivisions and governmental entities are exempt from the permit fee requirements of this section, however, the application must be timely submitted and the proper permit obtained prior to the planned discharge of display or special effects fireworks.

#### **5.04.105: PROHIBITED ACTS AND ACTIVITIES:**

A. It shall be unlawful to discharge fireworks:

1. Within one hundred feet (100') of any place where fireworks are sold or offered for sale;
2. Within three hundred feet (300') of any church, hospital, rest home, retirement center, school building or similar institution;
3. In such a manner that the fireworks project over or onto the property of another person without the consent of the person owning or controlling such property; or
4. In any public park.

- B. It shall be unlawful to ignite, discharge or throw any fireworks from or into any motor vehicle, or at or near any person.
- C. It shall be unlawful to make, sell, or offer to sell or to discharge any type of homemade fireworks.
- D. It shall be unlawful to sell or to offer to sell fireworks:
  - 1. Without a permit;
  - 2. In violation of any requirement of this chapter or any regulations adopted by the Utah fire prevention board;
  - 3. At a location not specified in the permit application;
  - 4. Without the insurance coverage required in the permit application; or
  - 5. In violation of subsection 5.04.103B of this chapter.
- E. Except as provided in subsection 5.04.101 of this chapter, it shall be unlawful for any person, firm or corporation to at any time own, possess, control, sell or offer to sell any fireworks other than as set forth in Utah Code Annotated section 53-7-222.

#### **5.04.106: AUTHORITY OF TOWN TO PROHIBIT DISCHARGE:**

The town council, during times of adverse fire conditions, may review information regarding meteorological conditions, moisture content of plants and soil, and other information related thereto, and may at its discretion prohibit the use of all fireworks in the protection of the health, safety and welfare of the public. Such a prohibition shall be for a defined period of time and may be limited to identified areas of the town, or may be applicable throughout the town.

#### **5.04.107: CONFLICTING PROVISIONS:**

In the event there should at any time be a conflict between the provisions of this chapter, and provisions of Utah Code Annotated or the rules and regulations adopted pursuant thereto, the more strict shall control.

## **CHAPTER 5 ANIMAL CONTROL**

### **Section**

5.05.101:	ADMINISTRATION
5.05.102:	DEFINITIONS
5.05.103:	LICENSE AND REGISTRATION OF DOGS
5.05.104:	DOGS AT LARGE
5.05.105:	DANGEROUS AND/OR VICIOUS ANIMALS
5.05.106:	NUISANCE ANIMALS
5.05.107:	RABIES CONTROL AND ANIMAL BITES
5.05.108:	NONCONFORMING OWNERS
5.05.109:	IMPOUNDMENT
5.05.110:	ENFORCEMENT
5.05.111:	CITATION FOR MISDEMEANOR
5.05.112:	PENALTY

### **5.05.101: ADMINISTRATION:**

The town council or authorized agent shall resolve dog related disputes within the corporate limits of the town.

### **5.05.102: DEFINITIONS:**

The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:

ADDITIONAL PET:	Any dog in addition to the amount allowed per household.
ANIMAL SHELTER:	Any facility owned and operated by a government entity or any animal welfare organization, which is incorporated within the state of Utah, for the purpose of preventing cruelty to animals, and used for the care and custody of seized, stray, homeless, quarantined, abandoned or unwanted dogs, cats or other domestic animals.
AT LARGE:	A dog shall be considered to be “at large” when it is off the owner’s property and not under immediate control by means of a durable restraint device capable of keeping the dog

restrained.

**BITE:** Any actual puncture, tear or abrasion of the skin inflicted by the teeth of an animal.

**DANGEROUS ANIMAL:** Any animal that, according to the records of the town or county police agency:

A. Has inflicted serious injury on a human being, with or without provocation, on public or private property

B. Has killed or injured a domestic animal, with or without provocation, while off the owners' property;

C. Has previously been found to be "potentially dangerous", the owner having received notice of such, and it is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals;

D. The animal is found to be in violation of any restrictions placed upon the animal pertaining to a potentially dangerous animal, as designated in this chapter.

**DOG:** Any canine over six (6) months of age. Any canine under six (6) months of age is a puppy.

**DOMESTIC ANIMAL:** Animals accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, rabbits, fowl, horses, swine, goats, sheep, mules, donkeys, llamas and cattle.

**NONCOMFORMING:** Anyone in conflict with this chapter as to the number of dogs, upon its enactment.

**OFFICER:** The entity, person or persons contracted or appointed by the mayor and town council to give citations and impound dogs, as needed.

**OWNER:** Any person or persons, association, firm or corporation owning, keeping or harboring a dog.

POTENTIALLY DANGEROUS  
ANIMAL:

Any animal that, with or without provocation, chases or approaches a person upon the streets, sidewalks or any public grounds, in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack, with or without provocation. In addition a “potentially dangerous animal” is any animal that, because of witnessed and documented action, is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.

QUARANTINE:

The isolation of an animal in a substantial enclosure, so the animal is not subject to contact with other animals or unauthorized persons.

RESTRAINT DEVICE:

Any chain, leash, cord, rope or other device commonly used to restrain an animal.

VICIOUS ANIMAL:

Any animal which:

A. Has inflicted serious injury on a human being, with or without provocation, on public or private property;

B. Has killed or injured a domestic animal, with or without provocation, on public or private property;

C. Has previously been found to be a “dangerous animal”. The owner having received notice of such and the animal again bites, attacks or endangers the safety of humans or domestic animals; or it is witnessed and documented that the animal is in violation of restrictions placed upon the animal pertaining to a potentially dangerous or dangerous animal, pursuant to section 5.05.105 of this chapter.

WORRY:

To harass by tearing, biting or shaking with the teeth, with or without provocation.

## **5.05.103: LICENSE AND REGISTRATION OF DOGS:**

### **A. License And Registration:**

1. License Required: It is unlawful for any person to own, keep, harbor, board or maintain a dog within the town limits, without registering and obtaining a license for such dog, available from the town recorder or other person designated by the mayor and town council.
2. When To Apply: The license may be applied for any time after January 1, and up to February 28 of any year.
3. Time Limit To Register: All dogs brought into the town shall require registering and licensing within thirty (30) days after they enter the town, or within thirty (30) days after reaching the age of six (6) months.
4. Late Fee: Persons who fail to obtain a license, as required within the time period specified in this section, will be subject to an additional licensing "late fee".
5. Information Required: The owner shall state at the time of application for license, the owner's name and address, and the dog's name, sex, breed and color.
6. Proof Of Spay Or Neuter; Exception:
  - A. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed.
  - B. An exception is allowed if a written statement is received from a licensed veterinarian stating that the animal in question cannot, for a stated reason, have the surgery performed, or that the animal is of such an age that the surgery would not alter the outcome.
7. Rabies Inoculation; Exception:
  - A. Proof that the dog has a current rabies inoculation shall be present at the time the license is applied for. Proof must be in writing and must include the name and signature of the licensed veterinarian who administered the vaccine. Exception: If a written statement is received from the licensed veterinarian stating that the animal in question cannot, for stated reasons, have a rabies inoculation.
  - B. Rabies vaccinations become invalid after two (2) years from the date of vaccination, unless otherwise shown on the rabies certificate. Vaccinations expiring January through June of the license year will be required to be brought current prior to licensing. Exception: If a written statement is

received from a licensed veterinarian stating that the vaccination will be valid through the current calendar year.

**B. Fees For Dog Licensing:**

1. Payment Required: The town shall issue no dog license until the required fee, as set forth in the town fee schedule, is paid.
2. Term Of License; Expiration: The license fee shall cover the calendar year in which it was issued; expiring on December 31 of the year of issuance, regardless of the date when issued.

**C. Tag And Collar:**

1. Requirements: Upon payment of the license fee, the owner shall be issued a license certificate and a numbered metal tag for each dog so licensed. The tag shall change each year and shall have stamped thereon the year for which it was issued. Every dog owner, except those operating a boarding kennel or other such establishment, shall provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn.
2. Duplicate license: In case a dog tag is lost or destroyed, the town recorder, upon presentation of the license for the current year, will issue a duplicate.
3. Nontransferable; Refunds: Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of the death of the dog or the owner leaving the town, before expiration of the license period.
4. Unlawful To Deprive: It shall be unlawful to deprive a registered dog of its collar and/or tag.
5. Nuisance Declared: Any dog without a collar with the registration tag attached or which had not been registered, is hereby declared a public nuisance and shall be immediately impounded.

**D. Number of Dogs Per Residence:**

1. Specified: No person or persons at any one residence within the jurisdiction of this chapter, shall at any one time own, keep or harbor, board, license or maintain more than two (2) dogs, six (6) months or older.
2. Permits Required: Any person maintaining, keeping, harboring or boarding four (4) or more dogs, six (6) months or older, within the town limits shall be required to have an additional dog permit. Payment of the annual additional dog permit fee shall entitle such owner to license up to six (6) dogs annually. All applications for said permits shall be submitted in writing upon printed forms



provided by the town officer. Upon approval, the town recorder shall issue a permit upon payment of the required fee, as set forth in the town fee schedule, which is subject to amendment by the town council by resolution. The regular license fee shall also be charged for each dog. Owners shall be subject to all provisions of this chapter.

#### **5.05.104: DOGS AT LARGE:**

It shall be unlawful for any dog to be allowed, either negligently or with specific intent, to run “at large”, as defined in section 5.05.102 of this chapter. Any dog so found is hereby declared to be a nuisance and a menace to the public health and safety, and shall be taken up and impounded as provided herein. Whenever possible, the owner shall be notified. The owner or keeper may be cited.

#### **5.05.105: DANGEROUS AND/OR VICIOUS ANIMAL:**

A. Possession Of Potentially Dangerous Animal: Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his/her disposal to restrict a potentially dangerous animal from injuring any person or other animal. The town may from time to time impose specific restrictions regarding the housing of potentially dangerous animals.

B. Failure To Properly Confine Potentially Dangerous Animal; Penalty: Any owner of any potentially dangerous animal who willfully allows it to go at large or who fails to hold the same in the manner specified for such an animal, by the town is guilty of a class B misdemeanor, subject to penalty as provided in section 1.04.101 of this code.

C. Possession Of Dangerous Animal:

1. Any dangerous animal while on the owner’s property must be securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from the elements for the animal. The pen or structure shall be such that the animal cannot burrow or dig under the sides of the enclosure.

2. Dangerous animals, when outside the enclosure, must be under the immediate control of a responsible adult by means of an adequate “restraint device”, as defined in section 5.05.102 of this chapter, and muzzled. The muzzle shall be made in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

3. The officer may take into immediate possession any dangerous animal if the officer determines:

- A. That the animal is not maintained in proper enclosure; or
- B. That the animal is outside of the owner's dwelling or outside of a proper enclosure and not under physical restraint; or
- C. If there are any further violations of any legal restrictions previously placed on such animal provided in this section.

D. Declaration And Disposal Of Vicious Animals: If the officer determines, as a result of a witnessed incident, that an animal is potentially a danger or dangerous and finds that the animal is in violation of such restrictions as the town has deemed necessary for the safety of persons and/or animals in the community, the animal may be declared a vicious animal. The officer may immediately take possession of the vicious animal and place said animal in a proper quarantine facility and thereafter destroy the animal in a expeditious and humane manner if the owner or custodian, after having received notice of such, fails to make a request in writing to the quarantine facility to delay said action.

1. Holding Period; Request For Hearing: It is determined that a proper holding period for any vicious animal shall be three (3) working days. In the event the owner or custodian of the vicious animal fails to request, in writing, a formal hearing within the three (3) day holding period the holding facility is authorized to destroy the vicious animal in a humane manner. The holding period shall be extended to meet state and local regulations for quarantine for animals needing rabies evaluation.

2. Hearing: Any owner or custodian who files a written request shall be afforded a hearing before the town council. It shall be the responsibility of the town council to determine whether the animal should be returned to the owner or custodian to be destroyed.

A. At any hearing under this subsection, the officer making the declaration of a vicious animal shall appear and testify, under oath, regarding the facts which led to the required findings. The officer shall be subject to cross examination by the owner, custodian or authorized representative.

B. The officer may also present any additional evidence or sworn testimony supporting his/her decision. The owner or custodian of the animal may likewise present evidence or sworn testimony in support of his/her position. The hearing shall be informal, but shall be recorded.

C. The animal shelter shall not order the destruction of the animal until a decision is rendered and the town council notifies the shelter, in writing, of a decision.

## **5.05.106: NUISANCE ANIMALS:**

A. Animals Declared Nuisance; Penalty: Any person having custody of a dog shall exercise proper care and control of his/her animal in order to prevent it from becoming a public nuisance. Any owner or possessor of an animal who keeps such animal contrary to the provisions of this section shall be guilty of a class c misdemeanor and subject to penalty as provided in section 1A.04.101 of this code. An animal shall be deemed to be a "public nuisance" if the animal

1. Causes damage to, damages or destroys property of anyone other than the animal's owner.
2. Causes unreasonable odors.
3. Causes unsanitary conditions.
4. By loud, continued or frequent barking, howling or yelping, shall annoy, disturb or endanger the health and welfare of any person or neighborhood, attested to by more than one complaint.
5. Chases any person, vehicle, bicycle or other animal that is properly restrained.
6. Bites, attacks, chases or worries a person or domestic animal. The owner in violation of this provision shall be strictly liable for damages to any person injured or to the owner of any animal injured or destroyed thereby. Exception: A dog shall not be considered a public nuisance under this provision if it bites a person who is wrongfully assaulting the dog or the dog's owner, or if it bites a person upon the premises owned or occupied by the dog's owner after being provoked by that person.
7. Scatters garbage.
8. Urinates or defecates on property of another.
9. Is an animal which has been impounded for being at large, or its owner or possessor has been convicted for a dog being at large on three (3) separate occasions within a twelve (12) month period.
10. Is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that dog by the town.
11. If the dog trespasses on private property of a person other than the dog's owner.

B. Abatement Of Public Nuisance Animals:

1. “Abatement” shall be defined to include either relocating or euthanizing the animal.
2. When it reasonably appears to the town that an animal is a “public nuisance”, as defined in subsection A of this section, and that such nuisance should be abated, the officer shall first attempt to get written consent of the animal’s owner to abate the animal.
3. If the animal owner’s consent cannot be readily obtained, the town may file with the governing court a charge of maintenance of a public nuisance. The charge shall set forth the facts, according to the best information, indicating that the owner is maintaining a public nuisance, and the nuisance should be abated. Until such time as the owner may be summoned to appear before the court, the animal may be impounded, and held pending a decision by the court.
4. If the charge is denied, a hearing will be set pursuant to the normal procedure of the governing court. If the court finds that the charge of maintaining a public nuisance has been proven, the court shall issue an order setting out the method of abatement.
5. Abatement, by relocation, shall not be an option if the animal represents a continuing threat or serious harm, such as in the case of a vicious dog.
6. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the animal shall not constitute a nuisance in the future.
7. In the event the court determines that, in fact, the animal is a public nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fees may be incurred by the town as a result of such impoundment.

#### **5.05.107: RABIES CONTROL AND ANIMAL BITE:**

A. Vaccination Requirements: All dogs shall be vaccinated by a duly licensed veterinarian or at a rabies clinic. Every dog shall be revaccinated every two (2) years thereafter (see also subsection 5.05.103A7b of this chapter). Any unvaccinated dog over six (6) months of age, adopted or brought into the jurisdiction, must likewise be vaccinated initially. Thereafter valid protection must be maintained.

#### **B. Impoundment Of Animals Without Valid Rabies Vaccination Tag:**

1. An owner may reclaim any vaccination animal impounded because of lack of a rabies vaccination tag by furnishing proof of a rabies vaccination, within seventy two (72) hours of release.

2. Any unvaccinated animal may be reclaimed prior to disposal by payment of impound fees and by obtaining or providing proof of a rabies vaccination, within seventy two (72) hours of release.

3. Any animal not reclaimed within the prescribed period of time shall be disposed of pursuant to this chapter

C. Rabid Animal Reports: Any person having knowledge of the whereabouts of an animal known to have been exposed to or suspected of having rabies, or of an animal or person bitten by such a suspected animal, shall notify town or county health department

D. Quarantine And Disposition Of Biting Animal:

1. An animal that has rabies or shows signs of having rabies and every animal bitten by another animal affected with rabies or that has been exposed to rabies shall be reported by the owner as set forth in subsection C of this section, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal in question to the town officer or designated agent upon demand.

2. The owner of any animal that has been bitten by another animal known to be capable of harboring the rabies virus shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this chapter may enter upon private property to seize the animal if the owner refuses to surrender the animal (see subsection 5.05.110A of this chapter).

3. Any animal subject to rabies that bites a person or animal or is suspected of having rabies may be seized and quarantined for observation for a period of not less than fourteen (14) days by the animal shelter. The owner of the animal shall bear the cost of confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner, may be made by the officer if the animal has current rabies vaccinations at the time the bite is inflicted or if there are other special circumstances justifying an exemption. A person who has custody of an animal under quarantine shall immediately notify the town if the animal shows any sign of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow an officer or representative of the health department to make an inspection or examination during the period of quarantine.

4. If the animal dies within fourteen (14) days from the date of the bite, the person having custody shall immediately notify the officer in order that they may have the head immediately removed and delivered to the state health department.

5. If at the end of the fourteen (14) day period an investigating officer of the town or animal shelter examines the animal and finds no sign of rabies, the animal may

be released to the owner. In the case of a stray it shall be disposed of as provided in this chapter.

6. In the case of an unvaccinated animal known to have been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed.

**E. Bites; Duty To Report:**

1. Any person having knowledge of any individual or dog having been bitten by an animal subject to rabies shall report the incident immediately to the Wasatch County sheriff department.

2. The owner of the dog that bites a person and any person bitten by a dog shall report the bite the Wasatch County sheriff department within twenty four (24) hours of the bite.

3. A physician or other medical personnel who renders professional treatment to a person bitten by a dog shall report the fact that he/she has rendered professional treatment to the Wasatch County sheriff department within twenty four (24) hours of the first professional attendance. He shall report the name, sex and address of the person bitten, as well as the type and location of the bite. If known, he shall give the name and address of the owner of the dog that inflicted the bite, and any other facts that may assist the Wasatch County sheriff department.

4. Any person treating an animal bitten, injured or mauled by another animal shall report the incident to the Wasatch County sheriff department. The report shall contain the name and address of the owner of the wounded, injured or bitten animal, the name and address of the owner and description of the animal that caused the injury, and the location of the incident.

5. Any person not conforming to the requirements of this subsection shall be in violation of this chapter.

**5.05.108: NONCONFORMING OWNERS:**

An owner who is “nonconforming”, will stay as such until such time that they come into compliance by reducing the number of dogs due to death, selling or giving away of their current dogs, after such time they will be held to the terms of this chapter.

**5.05.109: IMPOUNDMENT:**

A. Shelter Provided: the town has contracted with Brigham City animal shelter where impounded animals will be adequately housed and fed

B. Authorized; Conditions:

1. All animals taken into custody shall be placed in an adequate shelter which the town has contracted for this purpose.

2. The following animals may be taken into custody and impounded as deemed necessary

A. Any dog being kept or maintained contrary to the provisions of this chapter

B. Any dog running at large, with any reasonable means used to immobilize.

C. Any dog which is not licensed. A dog not wearing a tag shall be presumed to be unlicensed for the purpose of this section.

D. Any abandoned or neglected dog whose safety may be threatened should the animal not be readily placed into protective custody.

E. Dogs which are not vaccinated for rabies in accordance with the requirements of this chapter.

F. Any animal needing to be for quarantine.

G. Any potentially dangerous or dangerous animal not properly confined as required by this chapter.

#### C. Redemption Of Animals:

1. The owner of an impounded animal or this authorized representative may redeem such animal before disposition, provided he/she pays:

A. The impound fees;

B. The daily board charges;

C. Any veterinary costs incurred during the impoundment period;

D. Transportation fee, if any;

E. Any other expenses incurred to impound an animal in accordance with state or local laws.

2. Fees for impound and boarding shall be set from time to time by the agency contracted for impounding of animals by the town.

#### D. Terms Of Impoundment, Destruction And Disposal Of Animals:

1. Animals shall be impounded for a minimum of three (3) working days before further disposition.
2. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner.
3. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or there disposition, as herein provided.
4. All animals, except those quarantined or confined by court order or those subject to Utah Code Annotated section 4-25-4, which are held longer than the minimum impoundment period and all animals voluntarily relinquished to the impound facility, may be destroyed. Any healthy dog may be sold at the discretion of the animal shelter.
5. Any licensed animal impounded and having or suspected of having serious physical injury or contagious disease requiring medical attention may, at the discretion of the animal shelter, be released to the care of a veterinarian with or without the consent of the owner.
6. When, in the judgment of the animal shelter, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to person or property, such animal may be destroyed without regard to any time limitation otherwise established in this chapter and without a court order.

#### **5.05.110: ENFORCEMENT:**

A. Right Of Entry: In the enforcement of this chapter, all officers designated by the town council and mayor are hereby authorized to enter onto the open premises of any person or entity to take possession of any animal in violation of this chapter.

B. Interference With Officer Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the officer or any of this authorized representatives in the discharge of their duties as herein prescribed.

C. Investigation: The Wasatch County sheriff department or the officers may enter upon privately owned land to investigate reports of vicious animals, rabies and other contagious animal disease and to investigate violations of and enforce the provisions of this chapter.

#### **5.05.111: CITATION FOR MISDEMEANOR:**



A. The town council, designated officer or any public official charged with the enforcement of laws of this town, in lieu of taking a person into custody, may issue and deliver a citation requiring any person subject to arrest or prosecution on a misdemeanor charge to appear at the court of the magistrate before whom the person could be taken pursuant to law, if the person had been arrested.

B. If a citation is issued, the town council or designated officer shall issue one copy to the person cited and shall within five (5) days file a duplicate copy with the court specified in the citation.

#### **5.05.112: PENALTY:**

Unless otherwise specifically provided, a violation of any provision of this chapter shall be punished as a class B misdemeanor.

# **TITLE 6**

## **MOTOR VEHICLES AND TRAFFIC**

Subject	Chapter
Motor Vehicle Code	1
Traffic Rules and Regulations	2
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# **CHAPTER 1**

## **MOTOR VEHICLE CODE**

Section

6.01.101: MOTOR VEHICLE ACT ADOPTED

### **6.01.101: MOTOR VEHICLE ACT ADOPTED:**

The Motor Vehicle Act, as contained in Utah Code Annotated Title 41, Chapter 1a, as amended, is hereby approved and adopted as the motor vehicle code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Motor Vehicle Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 2**

### **TRAFFIC RULES AND REGULATIONS**

Section

6.02.101: UTAH TRAFFIC RULES AND REGULATIONS ACT ADOPTED

#### **6.02.101: UTAH TRAFFIC RULES AND REGULATIONS ACT ADOPTED:**

The Utah Traffic Rules and Regulations, as contained in Utah Code Annotated Title 41, Chapter 6a, as amended, is hereby approved and adopted as the traffic rules and regulations code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Traffic Rules and Regulations are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 3 DRIVING BY MINORS**

Section

6.03.101: UTAH DRIVING BY MINORS LAWS ADOPTED:

### **6.03.101: UTAH DRIVING BY MINORS LAWS ADOPTED:**

The Utah Driving by Minors laws, as contained in Utah Code Annotated Title 41, Chapter 8, as amended, is hereby approved and adopted as the driving by minors code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Driving by Minors laws are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 4**

### **FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS**

Section

6.04.101: FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS ACT ADOPTED:

#### **6.04.101: FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNERS AND OPERATORS ACT ADOPTED:**

The Financial Responsibility of Motor Vehicle Owners and Operators Act, as contained in Utah Code Annotated Title 41, Chapter 12a, as amended, is hereby approved and adopted as the Financial Responsibility of Motor Vehicle Owners and Operators code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Financial Responsibility of Motor Vehicle Owners and Operators Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 5 OFF HIGHWAY VEHICLES**

Section

6.05.101: UTAH OFF HIGHWAY VEHICLES ACT ADOPTED

### **6.05.101: UTAH OFF HIGHWAY VEHICLES ACT ADOPTED:**

The Utah Off Highway Vehicles Act, as contained in Utah Code Annotated Title 41, Chapter 22, as amended, is hereby approved and adopted as the Off Highway Vehicles code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Off Highway Vehicles Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 6**

### **MOTOR VEHICLE INSURANCE LAWS**

Section

6.06.101: UTAH MOTOR VEHICLE INSURANCE LAWS ADOPTED

#### **6.06.101: UTAH MOTOR VEHICLE INSURANCE LAWS ADOPTED:**

The Utah Motor Vehicle Insurance laws, as contained in Utah Code Annotated Title 31A, Chapter 22, part 3, as amended, is hereby approved and adopted as the Motor Vehicle Insurance code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Utah Motor Vehicle Insurance laws are made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.



## **CHAPTER 7**

### **UNIFORM DRIVER'S LICENSE ACT**

Section

6.07.101: UNIFORM DRIVER'S LICENSE ACT ADOPTED

#### **6.07.101: UNIFORM DRIVER'S LICENSE ACT ADOPTED:**

The Uniform Driver's License Act, as contained in Utah Code Annotated Title 53, Chapter 3, as amended, is hereby approved and adopted as the Uniform Driver's License code of the town, including all subsequent amendments which may be enacted after the effective date hereof, said subsequent amendments shall carry the same effective date and operation as provided for in Utah Code. By this reference, the Uniform Driver's License Act is made a part of this code as fully as if set out at length herein and shall be controlling within the town limits; provided, however, that any provision of the foregoing having a penalty which cannot be imposed for violation of a town ordinance is not adopted.

## **CHAPTER 8**

### **STOPPING, STANDING AND PARKING**

#### Section

- 6.08.101: DEFINITIONS
- 6.08.102: PARKING OR BLOCKING STREETS OR HIGHWAYS
- 6.08.103: UNLAWFUL PARKING
- 6.08.104: AUTHORIZATION FOR REMOVAL OF VEHICLE
- 6.08.105: SIGNS
- 6.08.106: TRAFFIC CODE APPLICABLE TO PUBLIC SCHOOL PROPERTY

#### **6.08.101: DEFINITIONS:**

As used in this chapter:

COMMERCIAL VAN:	Any enclosed vehicle with a motor used commercially to transport people or property, to include the size that would make parking along town streets inappropriate.
SEMITRUCK/TRAILER:	Any vehicle or combination truck/trailer that has at least three (3) axles used for cargo and is of the type commonly used for commercial transport purposes.

#### **6.08.102: PARKING OR BLOCKING STREETS OR HIGHWAYS:**

In addition to the parking provisions contained in the Utah traffic code, as adopted by this town, it shall be a class C misdemeanor for any person to:

- (1) Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon;
- (2) Wilfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer;
- (3) Wilfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

### **6.08.103: UNLAWFUL PARKING:**

(1) **Parking At Curb:** No vehicle shall be parked with the left side of the vehicle next to the curb, except on one-way streets. It is unlawful to stand or park any vehicle in a street other than parallel with the curb and with the two (2) right wheels of the vehicle within twelve inches (12") of the regularly established curb line, except on those streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.

(2) **Vehicles For Sale:** It is unlawful to park any vehicle on any street for the primary purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.

(3) **Loading Zone:** When so posted, it is unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than is permitted by the posted sign for the loading or unloading of passengers, or for the driver to stand or park any freight carrying vehicle for a period of time longer than is necessary to load, unload and deliver materials in any place designated as a loading zone and marked as such.

(4) **Parking Prohibited:** It is unlawful for any person, except emergency vehicles to park any motor vehicle on any street in violation of the posted restrictions.

(5) **Alleys:** No person shall park a vehicle within an alley in such manner or under such conditions as to leave less than ten feet (10') of the width of the roadway available for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

(6) **Bus Stands:** No motor vehicle other than a bus shall be parked in a place so designated as a bus loading zone.

(7) **Parking Prohibited:**

(a) **Semitruck/Trailers And Commercial Vans:** It is unlawful for any person to park or leave standing on any public road right of way, street, alley or municipal property a semitruck/trailer combination, semitruck trailer or commercial van, except for the commercial delivery or loading of cargo, and for such purpose the parking or standing shall be limited to the period of time of actual loading or unloading.

(b) **Boats, Trailers, Tractors And Recreation Vehicles:** It is unlawful for any person to park or leave standing on any public road right of way, street, alley or municipal property any boat, trailer, tractor or recreation vehicle.

(c) **Motor Homes And Travel Trailers:** It is unlawful for any person to park or leave standing on any public road right of way, street, alley, or municipal property

a motor home or travel trailer except for the immediate loading or unloading thereof, and never for more than 18 hours.

(d) **Parking Limited To Seventy Two Hours:** It is unlawful for any person to stop, park or leave standing upon any public road or right of way within the town for more than seventy two (72) hours, any vehicle not covered in items above.

(e) **Obstruction Prohibited:** An unobstructed width not less than eighteen feet (18') of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicles shall be available from a distance of two hundred feet (200') in each direction upon such roadway.

(8) **Penalty:** Any person who violates the provisions of this section is guilty of a class C misdemeanor.

#### **6.08.104: AUTHORIZATION FOR REMOVAL OF VEHICLE:**

Whenever any public safety officer finds a vehicle in violation of this chapter, such officer is hereby authorized to move the vehicle or cause the vehicle to be removed, to the nearest garage or other place of safety, any vehicle at the vehicle owner's expense.

#### **6.08.105: SIGNS:**

The governing body may authorize or direct any person employed by the municipality to erect or install any sign or traffic control device required to enforce the provisions of this chapter.

#### **6.08.106: TRAFFIC CODE APPLICABLE TO PUBLIC SCHOOL PROPERTY:**

A. The traffic rules, regulations, ordinances, and laws that are applicable upon town streets and highways throughout the town are adopted and applicable, and are to be enforced, for the control of vehicular traffic and parking upon all public school property within the corporate limits of the town. Such traffic rules, regulations, ordinances, and laws shall be interpreted, construed, and applied insofar as practical to traffic situations arising upon school property to the same extent as though such school property were a public street or highway. For purposes of this title, such school property is declared to be and shall be considered a public street or highway.

B. The town council may adopt particular rules and regulations for the control of vehicular traffic and parking upon school property, and may adopt such rules and regulations especially prepared with reference to a particular school. Said rules and regulations shall be supplemental and in addition to the other rules and regulations

hereinabove provided and shall be enforced in the same manner as said rules and regulations.

C. The traffic rules, regulations, ordinances, and laws applicable to public school property are to be enforced by any peace officers of the state, county or town, and they are vested with authority to direct, control or regulate traffic upon said school properties within the town.

D. The penalty for violation of said regulations upon school properties shall be the same as if committed upon any public street or highway.

# **TITLE 7**

## **PUBLIC WAYS AND PROPERTY**

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Excavations	1
Obstructions of Public Streets and Property	2
Sufficient Infrastructure for Proposed Development	3
Streets and Sidewalks	4
Telecommunications Use of Right of Way	5

# **CHAPTER 1**

## **EXCAVATIONS**

### **Section**

7.01.101:	DEFINITIONS
7.01.102:	PERMIT REQUIRED; BASIS FOR ISSUANCE
7.01.103:	APPLICATION REQUIREMENTS
7.01.104:	EMERGENCY EXCAVATION
7.01.105:	FEES FOR PERMIT
7.01.106:	CONTENTS, DURATION AND EXTENSIONS OF PERMIT
7.01.107:	TRANSFER OR ASSIGNMENT OF PERMIT PROHIBITED
7.01.108:	COMPLIANCE REQUIRED; SITE PERMITTEE IDENTIFICATION; BARRICADES
7.01.109:	GENERAL REQUIREMENTS
7.01.110:	PATCHING REQUIREMENTS
7.01.111:	OTHER HIGHWAY PERMITS
7.01.112:	INSPECTION
7.01.113:	RELOCATION OF STRUCTURES IN PUBLIC WAYS
7.01.114:	IMPACT OF EXCAVATION ON EXISTING IMPROVEMENTS
7.01.115:	RESTORATION OF PUBLIC PROPERTY
7.01.116:	INSURANCE REQUIREMENTS
7.01.117:	BOND REQUIREMENTS
7.01.118:	HOLD HARMLESS AGREEMENT; LIMITATIONS ON TOWN LIABILITY
7.01.119:	EXCAVATION WITHOUT PERMIT; PENALTY
7.01.120:	FAILURE TO COMPLY; DEFAULT IN PERFORMANCE
7.01.121:	FAILURE TO CONFORM TO DESIGN STANDARDS; PENALTY
7.01.122:	APPEAL OF SUSPENSION, REVOCATION OR STOP ORDER
7.01.123:	TAMPERING WITH TRAFFIC BARRICADES
7.01.124:	CONFLICTING PROVISIONS
7.01.125:	PENALTY

### **7.01.101: DEFINITIONS:**

In this chapter the following words shall have the following meanings:

APPLICANT:	Any person who makes application for a permit.
APPURTENANCES:	Miscellaneous concrete surfaces within the public way, such as parking bays and carriage walks.
BUSINESS:	Any place in the town in which there is

	conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.
TOWN:	Town of Hideout, a municipal corporation of the state of Utah.
TOWN ENGINEER:	The town engineer, or his/her authorized representative.
EMERGENCY:	Any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility services.
ENGINEERING REGULATIONS, SPECIFICATIONS AND DESIGN STANDARDS:	The latest version of the engineering regulations, or standard specifications and detail for municipal construction published by the town engineer.
EXCAVATION OR EXCAVATE:	Digging in, cutting into the surface of, or breaking the surface of a public way.
EXCAVATION SITE RESTORATION:	Means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes, but is not limited to, repair, cleanup, backfilling, compaction and stabilization, paving and other excavation necessary to place the site in acceptable condition following the conclusion of the excavation, or the expiration or revocation of the permit.
FAILURE:	An excavation site restoration which fails to meet town engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials, or other surface irregularities. Measurement of failure shall be further defined in the engineering regulations.
INFRASTRUCTURE PROVIDER:	A person providing to another, for the



purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right of way.

**OPERATOR:**

Any person who provides service over a telecommunications system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

**PERMITTEE:**

Any person which has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

**PERSON:**

Means and includes any natural person, partnership, firm, association, provider, corporation, company, organization, or entity of any kind.

**PIPE DRIVEWAY:**

A driveway approach which uses a pipe or other means to bridge the gutter.

**PRIVATE DRAIN LINE:**

A pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring or storm water, or condensate into the public drainage system.

**PRIVATE DRAIN LINE:**

A pipe installed solely for the transmission of water collected or generated on private property such as drainage, spring or storm water, or condensate into the public drainage system.

**PROPERTY OWNER:**

Person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

**PROVIDER:**

An operator, infrastructure provider, reseller, system lessee or public utility company.

PUBLIC UTILITY COMPANY:	Any company subject to the jurisdiction of the Utah state public service commission, or any mutual corporation providing gas, electricity, water, telephone, or other utility product or services for use by the general public.
PUBLIC WAY:	Means and includes all public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys, and public drainage ways. It does not, however, include utility easements not within public ways of the town.
RESELLER:	Refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights of way.
RESIDENT:	The person or persons currently making their home at a particular dwelling.
STORM DRAIN:	A dedicated pipe, conduit, waterway or ditch installed in a right of way or easement for the transmission of storm and drainage water. This term does not include private drain lines.
SYSTEM LESSEE:	Refers to any person that leases a system or a specific portion of a system to provide services.
TELECOMMUNICATIONS SYSTEM OR SYSTEM:	All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider located in the construction, ownership, operation, use or maintenance of a telecommunications system.
TRAFFIC BARRICADE MANUAL:	The manual on proper barricading and traffic control practices, published by the

town engineer.

### **7.01.102: PERMIT REQUIRED; BASIS FOR ISSUANCE:**

Any person desiring to excavate in any kind in a public way with the town, shall make application for a permit. The decision by the town to issue a permit shall include, among other factors determined by the town, the following:

- A. The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;
- B. The capacity of the public way to accommodate multiple wire in addition to cables, conduits, pipes or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer and water;
- C. The damage or disruption, if any, of public or private facilities, improvements, or landscaping previously existing in the public way;
- D. The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.

### **7.01.103: APPLICATION REQUIREMENTS:**

A. Filing; Contractors: Application for a permit shall be filed with the town on a form or forms to be furnished by the town. Property owners and/or tenants for whom excavation is being done shall be responsible for obtaining the permits; provided, however, contractors may obtain the permit in the contractor's name.

B. Eligible Persons: No person shall be eligible to apply for or receive permits to excavate within the public ways of the town, save and except the following:

- 1. Contractors licensed by the state as general contractors;
- 2. Providers;
- 3. Property owners installing, replacing or maintaining less than five hundred (500) square feet or one hundred (100) linear feet of sidewalk, curb and gutter, or driveway approach, or other excavation approved by the town engineer, upon a portion of the public way adjacent to their residence; or
- 4. Persons offering a service which requires occupation of the public way, such as scaffolding or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings, and painting or cleaning of buildings or sign boards or other structures.

C. Denial Based On Past Performance: The town engineer may deny the issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance that in the opinion of the town engineer they will not consistently conform to the engineering regulations, specifications, design standards, or the requirements of this chapter.

D. Plans And Sketches May Be Required: When necessary, in the judgment of the town engineer, to fully determine the relationship of the excavation proposed to existing or proposed facilities within the public ways, or to determine whether the excavation proposed complies with the engineering regulations, construction specifications and design standards, the town engineer may require the filing of engineering plans, specifications and sketches showing the proposed excavation in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.

E. Excavation Without Permit Unlawful: It shall be unlawful for any person to commence excavation upon any public way until the town engineer has approved the application and until a permit has been issued for such excavation, except as specifically approved to the contrary in this chapter.

F. Appeal: The disapproval or denial of an application by the town engineer may be appealed by the applicant to the governing body by filing of a written notice of appeal within ten (10) days of the action of the town engineer. The governing body shall hear such appeal, if written request therefor be timely filed as soon as practicable, and render his/her decision within two (2) weeks following notice of such appeal.

G. Authority Of Town Engineer: In approving or disapproving excavation within any public way, or permits therefor, in the inspection of such excavation; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon him/her by this chapter, the town engineer shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.

H. Exemptions From Permit Requirements: A permit is not required from the town engineer for hand digging excavations for installation or repair of sprinkler systems and landscaping within the non-paved areas of the public way. However, conformance to all town specifications is required.

#### **7.01.104: EMERGENCY EXCAVATION:**

A. Authorized: Any person maintaining pipes, lines or facilities in the public way may proceed with excavation upon existing facilities without a permit when emergency circumstances demand that the excavation be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.

B. Commencement During Business Hours: In the event that emergency excavation is commenced on or within any public way of the town during regular business hours, the town engineer shall be notified within one-half (1/2) hour from the time the excavation is commenced. The person commencing and conducting such excavation shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall ensure that excavation is accomplished according to town engineering regulations, the manual on uniform traffic control devices and other applicable laws, regulations, or generally recognized practices in the industry.

C. Commencement During Other Than Business Hours: Any person commencing emergency excavation in the public way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which town offices are open for business after such excavation is commenced. A permit for such emergency excavation may be issued which shall be retroactive to the date when the excavation was begun, at the discretion of the town engineer.

#### **7.01.105: FEES FOR PERMIT:**

A. Required: The town shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the excavation performed under the permit as outlined in the consolidated fee schedule. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the town associated with the excavation to be done under the permit. All costs shall be assessed in a nondiscriminatory manner.

B. Waiver: The town engineer may waive permit fees or penalties or portion thereof provided for in this chapter, when he/she determines that such permit fee or penalty:

1. Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the town; or
2. Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the town strategic plan, master plans, or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes, and landscaping.

C. Additional Charges: Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection and excavation site restoration associated with each undertaking may be charged by the town to each permittee, in addition to the permit fee.

### **7.01.106: CONTENTS, DURATION AND EXTENSIONS OF PERMIT:**

A. Contents; Duration: Each permit application shall state the starting date and estimated completion date. Excavation shall be completed within five (5) days from the starting date or as determined by the town engineer. Such determination shall be based upon factors reasonable related to the excavation to be performed under the permit. Such factors may include, in addition to other factors related to the excavation to be performed, the following:

1. The scope of excavation to be performed under the permit;
2. Maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the excavation;
3. Protecting the existing improvements to the public way impacted by the excavation;
4. The season of the year during which the excavation is to be performed as well as the current weather and its impact on public safety and the use of the public way by the public;
5. Use of the public way for extraordinary events anticipated by the town.

B. Notification Of Commencement: The town engineer shall be notified by the permittee of commencement of the excavation within twenty four (24) hours prior to commencing excavation. The permit shall be valid for the time period specified in the permit.

C. Extensions:

1. If the excavation is not completed during such period, prior to the expiration of the permit, the permittee may apply to the town engineer for an additional permit or an extension, which may be granted by the town engineer for good cause shown.
2. The length of the extension requested by the permittee shall be subject to the approval of the town engineer. No extension shall be made that allows excavation to be completed in the winter period without payment of winter fees. Winter fees shall be double the permit fee for any excavation made between October 15 and May 15.

### **7.01.107: TRANSFER OR ASSIGNMENT OF PERMIT PROHIBITED:**

Permits shall not be transferable or assignable, and excavation shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the excavation to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the excavation under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit.

### **7.01.108: COMPLIANCE REQUIRED; SITE PERMITTEE IDENTIFICATION; BARRICADES:**

A. Compliance: The excavation performed in the public way shall strictly conform to the requirements of this chapter and the engineering regulations, design standards, construction specifications and traffic control regulations of the town, copies of which shall be available from the town engineer, kept on file in the office of the town recorder and be open to public inspection during office hours.

B. Site Permittee Identification: Where a job site is left unattended, before completion of the excavation, signage with minimum two inch (2") high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name, or company name, telephone number, and after hours telephone number.

C. Barricades: All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the town; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill excavation is actually commenced by the town. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The police department and fire department shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closure or traffic detour.

## **7.01.109: GENERAL REQUIREMENTS:**

Each applicant shall:

A. Hauling Off Excavated Materials; Refilling Trench: For single excavated areas less than fifty feet (50') in length and twenty feet (20') in width, all materials that are dug out of the trench or excavation shall be hauled off and disposed of. The trench or excavation shall be refilled with new crushed gravel and compacted to ninety five percent (95%) and made ready for the asphalt finish surface. The trench or excavation shall be patched by the contractor with a minimum of three inches (3") of asphalt.

B. Protection Of Public: Before any excavation begins under this permit and at all times during the excavation, make proper provisions for protecting the public with necessary guards, barricades, lights, signals and with all other appurtenances necessary to safeguard the lives and property of the users of such roadway, sidewalk and other facilities. Visible flasher lights shall be used in hours of darkness.

C. Liability; Insurance: Be responsible for any liability or personal injury resulting from neglect. The applicant shall indemnify the town against all claims, demands, costs, damages, attorney fees or other expenses of any kind occasioned by such neglect. The applicant shall, upon request of the town, produce evidence of insurance adequate to cover such claims.

D. Restoration: Be responsible for restoring all public ways, including sidewalk surfaces, curb and gutter, driveways, ditches, and other landscaping, to their original condition, whether public or private, in a manner conforming to current town specifications.

E. Minimum Excavation Area: On any project, regardless of the age or condition of the pavement, keep excavations to a minimum and, wherever possible, locate excavations so that one "common" patch can cover as many excavations as possible.

F. Road Restoration; Trench Maintenance: Restore roads to a passable and safe condition within twelve (12) hours. All remaining repairs and restoration shall take place within seven (7) calendar days from the date of the first excavation. All debris generated as a result of said excavation will be removed immediately from the area upon completion of the excavation. If, within the standard seven (7) days, or other time period authorized by the town engineer, the road cut or excavation has not been repaired as required, the town may revoke the excavation bond and cause the repairs to be made. The costs of repair shall include administrative costs. The permittee shall be responsible for trench maintenance for one year after the date it was inspected and approved by the public works department. If repair of the road cut or trench is necessary within the initial one year period, the permittee shall make repairs to the satisfaction of the town engineer or, in the alternative, the town may revoke the excavation bond and cause the repairs to be made.



G. Trench Length: Limit the trench length left at grade but unpaved to a maximum of one thousand feet (1,000'). No excavation shall be allowed to continue until the one thousand feet (1,000') of trench has been restored with proper asphalt surface.

#### **7.01.110: PATCHING REQUIREMENTS:**

Patching requirements shall meet the following standards:

A. Cuts Parallel To Street: For cuts parallel to the street, the patch required is the lane width by thirty feet (30') minimum or ten feet (10') beyond the cut at each end, whichever is larger.

B. Cuts Perpendicular To Street: For cuts perpendicular to the street or diagonal, the patch required is the lane width by twelve feet (12') minimum or five feet (5') beyond the cut on each side, whichever is larger.

#### **7.01.111: OTHER HIGHWAY PERMITS:**

A. Holders of permits for excavation on highways owned or under the jurisdiction of other government entities, but located within the town limits, shall not be required to obtain permits from the town under the provisions of this chapter, unless the excavation extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any town permit shall not be construed to permit or allow excavation on a county road or a state highway within the town without an applicable county or state permit.

B. The town engineer, in his or her discretion, shall have the right and authority to regulate excavation under permits issued by other governmental entities with respect to hours and days of excavation, and measures required to be taken by the permittee of said governmental entity for the protection of traffic and safety of persons and property. Notwithstanding the foregoing, nothing in this chapter shall be construed to impose any duty, implied or express, on the town or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property, arising out of the issuance of any permit issued by government entities other than the town, or arising out of any excavation performed on any public way owned or within the jurisdiction of the town.

#### **7.01.112: INSPECTION:**

After completion, and the engineer or public works director is satisfied that the requirements have been met, a memo will be written to the community development department indicating that the excavation is satisfactory. Payment adjustments to the applicant will then be made accordingly.

### **7.01.113: RELOCATION OF STRUCTURES IN PUBLIC WAYS:**

A. Town May Request: The town engineer may direct any person owning or maintaining facilities or structures in the public way to alter, modify or relocate such facilities or structures as the town engineer may require. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives. The person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the town, promptly protect, or promptly alter or relocate such facilities or structures, or part thereof, as directed by the town. In the event that such person refuses or neglects to conform to the directive of the town, the town shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the town all costs incurred by the town in connection with such excavation performed by the town, including also design, engineering, construction, materials, insurance, court costs and attorney fees.

B. Basis For Directive By Town: Any directive by the town engineer shall be based upon of the following:

1. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the town engineer to be structurally unsound or defective;
2. The facility or structure constitutes a "nuisance" as defined under state statute or town ordinance;
3. The permit under which the facility or structure was installed has expired or has been revoked;
4. The public way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction; or
5. The grades or lines of the public way are to be altered or changed.

C. Failure To Comply; Penalty: Any person owning or maintaining facilities or structures in the public way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the town engineer shall be guilty of a class B misdemeanor, and subject to penalty as provided in section 1A.4.101 of this code. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.

D. Directive Under Police Power: Any directive of the town engineer under this section shall be under and consistent with the town's police power. Unless an emergency

condition exists, the town engineer shall make a good faith effort to consult with the person regarding any condition that may result in a removal or relocation of facilities in the public way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive as far enough in advance of the required removal or relocation to allow the person a reasonable opportunity to plan and minimize cost associated with the required removal or relocation.

E. Exception For Private Easements: This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the public way, if that prior private easement grants a superior vested right.

F. Emergency Work By Town: The town may, at any time, in case of fire, disaster or other emergency, as determined by the town in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the public way, in which event the town shall not be liable therefor to a person. The town shall notify a person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this subsection.

#### **7.01.114: IMPACT OF EXCAVATION ON EXISTING IMPROVEMENTS:**

A. Temporary Sidewalks Or Curb Ramps: If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with town standards for such.

B. Temporary Gravel Surfaces: Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.

C. Disturbance Of Private Or Public Property:

1. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the town, such permittee shall ensure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the excavation.

2. The costs associated with the disturbance and the return, replacement and/or restoration shall be borne by the permittee. Further, a permittee shall reimburse a property owner or the town, for any actual damage caused by the permittee, its subcontractor, or its independent contractor, in connection with the disturbance of such property. However, nothing in this subsection shall require the permittee to pay a subscriber or private property owner when that subscriber or private

property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.

D. Acts Specifically Included: Examples of types of acts specifically included in this section are the following:

1. Removal of sod, lawn, shrubbery, flowers, trees, driveways, or fence, to install, trench, repair, replace, remove or locate, equipment, cable or other appurtenances of the permittee;
2. Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering, or the like on the part of the permittee;
3. Temporarily relocating or moving a piece of personal property or a fixture of a private property owner (such as a motor vehicle, fence, air conditioning, heating unit, or the like) in order to perform some sort of construction, maintenance or repair by the permittee; or
4. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or non-renewal of the franchise.

E. Drainage Channels Not Interrupted: Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the town engineer prior to the blockage of the channel.

F. Applicable To Subcontractors Or Independent Contractors: The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.

G. Permanent Structures Placed In Public Way Excepted: The requirements of this section shall not apply to the removal by a permittee, of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the town granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the county recorder.

### **7.01.115: RESTORATION OF PUBLIC PROPERTY:**

A. Required: The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards and specifications promulgated by the town and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department.

B. Request For Restoration By Town: At its option, the permittee doing the actual excavation work may request that the town restore the surface to its original condition. The fee for such resurfacing shall be determined by the town engineer in accordance with its reasonable costs for such excavation and shall be charged to the person, firm, or corporation making the excavation. Payment for said excavation shall be received by the town prior to the release of the bond.

### **7.01.116: INSURANCE REQUIREMENTS:**

A. Required; Limits: Before a permit is issued, the applicant shall furnish to the town evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions or with such alternative limits and provisions as may be approved by the town:

1. A minimum of one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage and not less than one million dollars (\$1,000,000.00) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two (2) times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The town attorney may increase or decrease minimum insurance limits, depending upon the potential liability of any project.
2. All policies shall include the town, its employees, officers, officials, agents, volunteers and assigns, as insureds. Any reference to the "town" shall include the town, its employees, officers, officials, agents, volunteers and assigns.
3. The coverage shall be primary insurance as respects the town, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the town, its employees, officers, officials, agents, volunteers, and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it.

4. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the town, its employees, officers, officials, agents, volunteers, and assigns.

5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Underwriters shall have no right of recovery or subrogation against the town, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.

7. The insurance companies issuing the policy or policies shall have no recourse against the town for payment of any premiums due or for any assessments under any form of any policy.

8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, sent to the town.

9. Each policy shall be endorsed to indemnify, save harmless and defend the town and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit excavation done by the permittee, his/her subcontractor or agent, whether or not the excavation has been completed and whether or not the right of way has been opened to public travel.

10. Each policy shall be endorsed to indemnify, hold harmless and defend the town, and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any excavation pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time excavation begins until the excavation is completed and right of way is opened for public use.

B. Rating: Insurance is to be placed with insurers with an AM Best rating of no less than an A carrier, with a rating of "7" or higher.

C. Certificates And Endorsements: The permittee shall furnish the town with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The town expressly reserves the right to require complete, certified copies of all required insurance policies at any time. Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

D. Unsatisfactory Policy: If any of the required policies are, or at any time become, unsatisfactory to the town as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the town, the permittee shall promptly obtain a new policy, submit the same to the town for approval, and thereafter submit verification of coverage as required by the town. Upon failure to furnish, deliver and maintain such insurance as provided herein, the town may declare the permit to be in default and pursue any and all remedies the town may have at law or in equity, including those actions outlined in this chapter.

E. Subcontractors Included: The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

F. Approval By Town Of Deductibles Or Self-Insured Retentions: Any deductibles or self-insured retentions shall be declared to and approved by the town. At the option of the town, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the town, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the town, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. Property Owner Performing Excavation; Homeowner's Insurance: A property owner performing excavation adjacent to his/her residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.

H. Exceptions To Submission Of Insurance Certificates: A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances: If such company shall submit satisfactory evidence in advance that:

1. It is insured in the amounts set forth in this chapter, or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and
2. Said coverage provides to the town the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
3. The excavation to be performed under the permit issued to the applicant is to be performed by the town, in which case insurance requirement or other risk transfer issues shall be negotiated between the town and the applicant by separate agreement.

## **7.01.117: BOND REQUIREMENTS:**

A. Bond Required: Except as noted in this chapter, each applicant, before being issued a permit, shall provide the town with an excavation bond to guarantee faithful performance of the excavation authorized by a permit granted pursuant to this chapter. The amount of the bond required may be increased or decreased at the discretion of the town engineer whenever it appears that the amount and cost of the excavation to be performed, and not satisfactorily completed, may vary from the amount of bond otherwise required under this chapter. The form of the bond and the entity issuing the bond shall be subject to the approval of the town attorney.

B. Public Utilities: Public utilities franchised by the town shall not be required to file any security if such requirement is expressly waived in the franchise documents.

C. Conditions Of Bond: The bond required by this section shall be conditioned as follows:

1. The permittee shall fully comply with the requirements of the town ordinances and regulations, specifications and standards promulgated by the town relative to excavation in the public way, and respond to the town in damages for failure to conform therewith;
2. After excavation is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such excavation and restore the public way to construction specifications, so as not to obstruct the public place or travel thereon more than is reasonably necessary;
3. The permittee shall guarantee the materials and workmanship for a period of two (2) years from completion of such excavation, with reasonable wear and tear excepted; and
4. Unless authorized by the town engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations. In winter, a temporary patch must be provided. In all excavations, restoration or pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If excavation is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.



### **7.01.118: HOLD HARMLESS AGREEMENT; LIMITATIONS ON TOWN LIABILITY:**

A. The permittee agrees to save the town, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any excavation performed under the permit. The issuance and acceptance of any permit under this chapter shall constitute such an agreement by the permittee to this section.

B. This chapter shall neither be construed as imposing upon the town, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any excavation within the public way, or under a permit issued pursuant to this chapter; nor shall the town, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit, or the approval of any excavation.

### **7.01.119: EXCAVATION WITHOUT PERMIT; PENALTY:**

A. Stop Order: A stop order may be issued by the town engineer directed to any person or persons doing or causing any excavation to be done in the public way without a permit. The abutting property owner shall be responsible for causing excavation to be done.

B. Penalty: Any person found to be doing excavation in the public way without having obtained a permit, as provided in this chapter, shall be required to pay a permit fee equal to two (2) times the normal permit fee. For replacement excavation, where a fee is not normally charged, the normal permit fee for new construction shall apply.

### **7.01.120: FAILURE TO COMPLY; DEFAULT IN PERFORMANCE:**

A. Revocation, Suspension Or Stop Order; Conditions: Any permit may be revoked or suspended and a stop order issued by the town engineer, after notice to the permittee for:

1. Violation of any condition of the permit, the bond, or of any provision of this chapter;
2. Violation of any provision of any other ordinance of the town or law relating to the excavation; or
3. Existence of any condition or the doing of any act which does constitute, may constitute, or cause a condition endangering life or property.

B. Immediate Effect: A suspension or revocation by the town engineer, and a stop order, shall take effect immediately upon entry thereof by the town engineer and notice to the

person performing the excavation in the public way. Notice to the person performing the excavation shall be accomplished when the town engineer has posted a stop work order at the location of the excavation and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.

C. Notice To Surety Or Escrow Agent: Whenever the town engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety or escrow agent on the bond, if there is a surety or escrow bond. Such notice shall state the excavation to be done, the estimated cost thereof, and the period of time deemed by the town engineer to be reasonably necessary for the completion of the excavation.

D. Performance By Town: In the event that the surety or escrow agent (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the excavation, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required excavation to be performed with due diligence, or to indemnify the town for the cost of doing the excavation, as set forth in the notice, the town may perform the excavation, at the discretion of the town engineer, with town forces or contract forces or both, and suit may be commenced by the town attorney against the principal and bonding company or escrow and such other persons as may be liable, to recover the entire amount due to the town, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the excavation may be charged against the amount deposited, and suit brought for the balance due, if any.

### **7.01.121: FAILURE TO CONFORM TO DESIGN STANDARDS; PENALTY:**

For failure to conform to the design standards and regulations, the town engineer may:

- A. Suspend or revoke the permit;
- B. Issue a stop order;
- C. Order removal and replacement of faulty excavation;
- D. Require an extended warranty period; and/or
- E. Negotiate a cash settlement to be applied toward future maintenance costs.

### **7.01.122: APPEAL OF SUSPENSION, REVOCATION OR STOP ORDER:**

Any suspension, revocation or stop order by the town engineer may be appealed by the permittee to governing body by filing a written notice of appeal within ten (10) days of the action of the town engineer. The governing body shall hear such appeal, if written request therefor be timely filed, as soon as practicable, and render his/her decision within a reasonable time following filing of notice of appeal.

### **7.01.123: TAMPERING WITH TRAFFIC BARRICADES:**

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

### **7.01.124: CONFLICTING PROVISIONS:**

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

### **7.01.125: PENALTY:**

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a class B misdemeanor, and subject to penalty as provided in section 1A.4.101 of this code. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

## CHAPTER 2

## Sections

- 7.02.101: DEFINITIONS  
7.02.102: REGULATIONS AND REQUIREMENTS  
7.02.103: NOTICE TO REMOVE

### 7.02.101: DEFINITIONS:

The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

OBSTRUCTION:

Any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly, which includes, but is not limited to, keeping or depositing on, or scattering over any of the following:

A. Lumber, junk, trash, or debris

B. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers

C. Abandoned, discarded or unused vehicles, trucks or trailers.

### STORAGE OF PERSONAL PROPERTY:

Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purpose for which it was manufactured, for a period of thirty (30) days or more (except in licensed junk yards) within this town, is hereby declared to be an obstruction and dangerous to the public safety.

### **7.02.102: REGULATIONS AND REQUIREMENTS:**

A. It shall be unlawful for any person to put, place or leave upon any public street, parking lot or sidewalk, or any property owner to suffer or permit to remain upon or leave such obstruction on a public street, parking lot or public property for more than seventy two (72) hours, any automobile, lumber, wood, fencing or other building materials.

B. It shall be unlawful for any person or property owner to put, place or leave upon any public street any automobile, lumber, wood, fencing, other building material or any obstruction, for the months of October through May.

C. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any obstruction thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

### **7.02.103: NOTICE TO REMOVE:**

Any obstruction, as set forth in this section, which shall have remained on the public street, parking lot, sidewalk or public property for more than twenty four (24) hours after notice of the violation of this section shall have been given to the owner of such obstruction by attaching a copy of such notice to the obstruction or delivered to the property owner, will be deemed abandoned and worthless, and the town may at its option remove such obstruction at the expense of the owner there of or at the expense of the town with out liability for such removal to any such owner.

## **CHAPTER 3**

### **SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT**

Section

7.03.101: SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT

#### **7.03.101: SUFFICIENT INFRASTRUCTURE FOR PROPOSED DEVELOPMENT:**

No development, nor permit for development, shall be granted, approved or issued unless the necessary public facilities in the applicable area have been determined to exist and have adequate capacity to accommodate the proposed development at the adopted level of service standard, and are available or are to be available when the development occurs. The applicable area includes all facilities that directly or indirectly deliver the services to or are impacted by the proposed development. Such a determination is to be made by the town engineer, using the accepted methods and measurements of the profession.

## **CHAPTER 4**

### **STREETS AND SIDEWALKS**

#### **Section**

- 7.04.101: CONSTRUCTION AND REPAIR
- 7.04.102: OBSTRUCTIONS
- 7.04.103: TRESPASS

#### **7.04.101: CONSTRUCTION AND REPAIR:**

A. Standards For Individuals: It shall be unlawful for any person, either as owner, agent, servant, contractor or employee, to construct any sidewalk in the town unless such sidewalk be constructed to lines and grades given and established by the town engineer or an authorized representative of the town, unless special permission to deviate from such lines and grades is first obtained from the town council.

B. Specifications: It shall be unlawful to construct any such sidewalk in violation of the specifications given by the proper town official.

C. Permit Required: No person, either as owner, agent, servant, contractor or employee, shall construct any permanent sidewalk in the town without first having obtained from the office of the town recorder a permit to do so. The acceptance of such a permit shall be deemed as an agreement upon the part of such person to construct said sidewalk in accordance with the specifications furnished by the town, as to the character and quality of the work, and if the sidewalk be constructed of cement, the character and quality of the cement, and constituent parts of the mixture, and the thickness of the walk.

D. Supervision: All sidewalks shall be constructed under the inspection of the street supervisor or his duly authorized representative.

#### **E. Driveways:**

1. It shall be unlawful for any person to construct any driveway across sidewalk space, or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the town recorder a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the town.

2. No permit shall be granted by any authorized town employee for any driveway exceeding forty feet (40') in width unless special permission is granted by action of the town council.

#### **7.04.102: OBSTRUCTIONS:**

A. Prohibited; Exception: All persons are hereby forbidden to obstruct the sidewalks, crosswalks or streets of the town, or to permit any gate or other obstruction to swing across any sidewalk of the town or to the annoyance of another; provided, however, that special permission may be granted by the town council to place obstructions on sidewalks or streets when necessary for improving the same or to provide protection when buildings are in the course of construction.

B. Weed And Snow Removal: It shall be unlawful for any owner or occupant, or the agent of any owner or occupant of any property in the town to fail to remove all weeds and noxious vegetation from such property, and in front thereof to the curb line of the street, and in the business district to fail to keep the sidewalks in front of such property free from snow, ice and other obstructions.

C. Materials In Gutter: It shall be unlawful for any person removing snow from the sidewalk, as provided in subsection B of this section, or for any person by any means whatsoever, to deposit snow, dirt, leaves or any other material in the gutter so as to clog the same or prevent the free flow of water therein.

D. Overflowing Of Water: No person shall allow water to overflow from any irrigation ditch or canal upon the streets or sidewalks of the town.

E. Encroachments:

1. Enforcement: If any street is encroached upon by a fence or building, or otherwise, the street supervisor may orally or in writing require the encroachment to be removed.

2. Notice To Remove: Notice must be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence, or by mailing to his last known address, if he is known and resides in the town. If not, such notice shall be posted on the encroachment specifying the breadth of the street, the place and extent of the encroachment and requiring him to remove the same within ten (10) days thereafter.

3. Refusal: If the encroachment is not removed or commenced to be removed and the removal not diligently prosecuted prior to the expiration of ten (10) days from the date of service or posting of notice, the person who causes, owns or controls the encroachment shall be in violation of this subsection and subject to prosecution therefor.

F. Sod, Earth Removal: No person shall dig, cut or remove any sod or earth from any street or other public place within the town without a permit from the street supervisor or from any premises not his own without the consent of the owner.



#### **7.04.103: TRESPASS:**

A. Criminal Trespass: The town council may, by posted sign, prohibit access to and designate the use of any part of a street or sidewalk including bridges, park strip or other appurtenances, as dangerous, hazardous, or illegal. Use of the street, bridge, etc., contrary to the sign that is posted, shall constitute a violation of this section and shall be considered a criminal trespass.

B. Penalty: Every person convicted of violating the regulations as prescribed herein shall be guilty of a class C misdemeanor and subject to penalty as provided in section 1A.4.101 of this code.

## **CHAPTER 5**

### **TELECOMMUNICATIONS USE OF RIGHTS OF WAY**

#### **Section**

7.05.101: DECLARATION OF FINDINGS AND INTENT; SCOPE

7.05.102: DEFINITIONS

7.05.103: FRANCHISE REQUIRED

7.05.104: COMPENSATION AND OTHER PAYMENTS

7.05.105: FRANCHISE APPLICATIONS

7.05.106: CONSTRUCTION AND TECHNICAL REQUIREMENTS

7.05.107: FRANCHISE AND LICENSE NONTRANSFERABLE

7.05.108: OVERSIGHT AND REGULATION

7.05.109: RIGHTS OF TOWN

7.05.110: OBLIGATION TO NOTIFY; PUBLICIZING WORK

7.05.111: GENERAL ADMINISTRATIVE PROVISIONS

7.05.112: FEDERAL, STATE AND TOWN JURISDICTION

#### **7.05.101: DECLARATION OF FINDINGS AND INTENT; SCOPE:**

##### **A. Declaration Of Findings And Intent:**

##### **1. Specified: The town finds that the rights of way within the town:**

- a. Are critical to the travel and transport of persons and property in the business and social life of the town;
- b. Are intended for public uses and must be managed and controlled consistent with that intent;
- c. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare, and general economic well-being of the town and its citizens; and
- d. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation and maintenance in the rights of way.

##### **2. Findings Regarding Compensation: The town finds that the town should receive fair and reasonable compensation for use of the rights of way.**

3. Findings Regarding Local Concern: The town finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights of way, municipal franchising, and vital business and community services, which are of local concern.

4. Findings Regarding Promotion Of Telecommunications Services: The town finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

5. Findings Regarding Franchise Standards: The town finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:

- a. Fairly and reasonably compensates the town on a competitively neutral and nondiscriminatory basis as provided herein;
- b. Encourages competition by establishing terms and conditions under which providers may use the rights of way to serve the public;
- c. Fully protects the public interests and the town from any harm that may flow from such commercial use of rights of way;
- d. Protects the police powers and rights of way management authority of the town, in a manner consistent with federal and state law;
- e. Otherwise protects the public interests in the development and use of the town infrastructure;
- f. Protects the public's investment in improvements in the rights of way; and
- g. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the Telecommunications Act of 1996 ("Act").

6. Power To Manage Rights Of Way: The town adopts this telecommunications chapter pursuant to its power to manage the rights of way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable compensation for the use of rights of way by providers as expressly set forth by section 253 of the Act.

B. Scope: This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights of way,

including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the town prior to the effective date hereof, whether operating with or without a franchise as set forth in subsection 7.05.103 of this chapter.

**C. Excluded Activity:**

1. Cable TV: This chapter shall not apply to cable television operators otherwise regulated by the town cable television ordinances regulating TCI Cable and Insight Communications Company.
2. Wireless Services: This chapter shall not apply to personal wireless service facilities.
3. Provisions Applicable To Excluded Providers: Providers excused by other law that prohibits the town from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the town police power and not preempted by other law shall be applicable.

**7.05.102: DEFINITIONS:**

For purposes of this chapter, the following terms, phrases, words, and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

**APPLICATION:** The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights of way of all, or a part, of the town. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the town concerning: the construction of a telecommunications system over, under, on or through the rights of way; the telecommunications services proposed to be provided in the town by a provider; and any other matter pertaining to a proposed system or service.

**TOWN:** Town of Hideout, Utah.

**COMPLETION DATE:** The date that a provider begins providing services to customers in the town.

**CONSTRUCTION COSTS:** All costs of constructing a system, including make ready costs, other than engineering fees, attorney or accountant fees, or other consulting fees.

**CONTROL OR CONTROLLING INTEREST:** Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty five percent (25%) of any provider (which person or group of persons is hereinafter referred to as "controlling person"). "Control" or "controlling interest", as used herein, may be held simultaneously by more than one person or group of persons.

**FCC:** The federal communications commission, or any successor thereto.

**FRANCHISE:** The rights and obligations extended by the town to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the town. Any such authorization, in whatever form granted, shall not mean or include: a) any other permit or authorization required for the privilege of transacting and carrying on a business within the town required by the ordinances and laws of the town; or b) any other permit, agreement or authorization required in connection with operations on rights of way or public property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the town or a private entity, or for excavating or performing other work in or along the rights of way.

**FRANCHISE AGREEMENT:** A contract entered into in accordance with the provisions of this chapter between the town and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

**GROSS REVENUE:** Includes all revenues of a provider that may be included as gross revenue within the meaning of Utah Code Annotated Title 11, Chapter 26, as amended.

**INFRASTRUCTURE PROVIDER:** A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights of way.

**OPEN VIDEO SERVICE:** Any video programming services provided to any person through the use of rights of way, by a provider that is certified by the FCC to operate an open video system pursuant to sections 651 et seq., of the Telecommunications Act (to be codified at 47 USC Title VI, Part V), regardless of the system used.

**OPEN VIDEO SYSTEM:** The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the town.

**OPERATOR:** Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or

who otherwise controls or is responsible for the operation of such a system.

**ORDINANCE OR TELECOMMUNICATIONS ORDINANCE:** This telecommunications chapter concerning the granting of franchises in and by the town for the construction, ownership, operation, use or maintenance of a telecommunications system.

**PSC:** The Public Service Commission, or any successor thereto.

**PERSON:** Includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the town.

**PERSONAL WIRELESS SERVICES FACILITIES:** Has the same meaning as provided in section 704 of the Act (47 USC 332(c)(7)(c)), which includes what is commonly known as cellular and PCS services that do not install any system or portion of a system in the rights of way.

**PROVIDER:** An operator, infrastructure provider, reseller or system lessee.

**RESELLER:** Refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

**RIGHTS OF WAY:** The surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the town.

**SIGNAL:** Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

**SYSTEM LESSEE:** Refers to any person that leases a system or a specific portion of a system to provide services.

**TELECOMMUNICATIONS:** The transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video and voice), without change in the form or content of the information sent and received.

**TELECOMMUNICATIONS SERVICE OR SERVICES:** Any telecommunications services provided by a provider within the town that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the town, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 USC 521 et seq.), and the Telecommunications Act of 1996. Telecommunications system or systems also includes an open video system.

**TELECOMMUNICATIONS SYSTEM OR SYSTEM:** All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased, or used by a provider, located in the rights of way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.

**WIRE:** Fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes.

### **7.05.103: FRANCHISE REQUIRED:**

A. Nonexclusive Franchise: The town is empowered and authorized to issue nonexclusive franchises governing the installation, construction and maintenance of systems in the town rights of way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the town and provider.

B. Every Provider Must Obtain: Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the town is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.

C. Nature Of Grant: A franchise shall not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including town property. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.

D. Current Providers: Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date hereof shall request issuance of a franchise from the town within ninety (90) days of the effective date hereof. If such request is made, the provider may continue providing service during the course of

negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of subsection 7.05.109 of this chapter.

E. Nature Of Franchise: The franchise granted by the town under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights of way in order to provide services.

F. Regulatory Approval Needed: Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the town upon the written request of the town evidence of all such approvals, permits, authorizations or licenses.

G. Term: No franchise issued pursuant to this chapter shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

#### **7.05.104: COMPENSATION AND OTHER PAYMENTS:**

A. Compensation: As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:

1. Application Fee: In order to offset the cost to the town to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the town, at the time of application, a nonrefundable application fee as set by ordinance of the town council.

2. Franchise Fees: The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the town.

3. Excavation Permits: The provider shall also pay fees required for an excavation permit as provided in Chapter 4 of this title.

B. Timing: Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty five (45) days of the close of each calendar month.

C. Fee Statement And Certification: Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.



D. Future Costs: A provider shall pay to the town or to third parties, at the direction of the town, an amount equal to the reasonable costs and reasonable expenses that the town incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American arbitration association.

E. Taxes And Assessments: To the extent taxes or other assessments are imposed by taxing authorities, other than the town on the use of the town property as a result of a provider's use or occupation of the rights of way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

F. Interest On Late Payments: In the event that any payment is not actually received by the town on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

G. No Accord And Satisfaction: No acceptance by the town of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the town may have for additional sums payable.

H. Not In Lieu Of Other Taxes Or Fees: The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the town owned poles are not waived and remain applicable.

I. Continuing Obligation And Holdover: In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the town as a result of such continued operation after the term, including, but not limited to, damages and restitution.

J. Costs Of Publication: A provider shall assume any publication costs associated with its franchise that may be required by law.

### **7.05.105: FRANCHISE APPLICATIONS:**

A. Required: To obtain a franchise to construct, own, maintain or provide services through any system within the town, to obtain a renewal of a franchise granted pursuant to this chapter, or to obtain the town approval of a transfer of a franchise, as provided in subsection 7.05.103 of this chapter, granted pursuant to this chapter, an application must be filed with town on the form attached to the ordinance codified herein as exhibit A, which is hereby incorporated by reference. The application form may be changed by the governing body so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.

B. Application Criteria: In making a determination as to an application filed pursuant to this chapter, the town may, but shall not be limited to, request the following from the provider:

1. A copy of the order from the PSC granting a certificate of convenience and necessity.
2. Certification of the provider's financial ability to compensate the town for provider's intrusion, maintenance and use of the rights of way during the franchise term proposed by the provider;
3. Provider's agreement to comply with the requirements of section 7.05.103 of this chapter.

C. Franchise Determination: The town, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding.

### **7.05.106: CONSTRUCTION AND TECHNICAL REQUIREMENTS:**

A. General Requirement: No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the town or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with town utilities. A provider shall obtain an excavation permit, pursuant to Chapter 4 of this title, before commencing any work in the rights of way.

B. Quality: All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute

signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.

C. Licenses And Permits: A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the town to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including, but not limited to, excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

D. Relocation Of System:

1. New Grades Or Lines: If the grades or lines of any rights of way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance.

2. Town Authority To Move System In Case Of Emergency: The town may, at any time, in case of fire, disaster or other emergency, as determined by the town in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the town, in which event the town shall not be liable therefor to a provider. The town shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in subsection 7.05.111 of this chapter.

3. Provider Required To Temporarily Move System For Third Party: A provider shall, upon prior reasonable written notice by the town or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the town for any such movement of its systems.

4. Rights Of Way Change; Obligation To Move System: When the town is changing a rights of way and makes a written request, a provider is required to move or remove its system from the rights of way, without cost to the town, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.

E. Protect Structures: In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all

existing structures belonging to the town and all designated landmarks, as well as all other structures within any designated landmark district. A provider shall obtain the prior written consent of the town to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights of way of the town required because of the presence of the system. Any such alteration shall be made by the town or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the town to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the town, any municipal structure or any other rights of way of the town involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.

F. No Obstruction: In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights of way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the town without the prior consent of the appropriate authorities.

G. Safety Precautions: A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including, but not limited to, the national electrical safety code.

H. Repair: After written reasonable notice to the provider, unless, in the sole determination of the town, an eminent danger exists, any rights of way within the town which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the town at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the town shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights of ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the town the entire amount thereof.

I. System Maintenance: A provider shall:

1. Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise.
2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the national electrical safety code and all applicable other federal, state and local laws or regulations.
3. At all reasonable times, permit examination by any duly authorized representative of the town of the system and its effect on the rights of way.

J. Trimming Of Trees: A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system.

#### **7.05.107: FRANCHISE AND LICENSE NONTRANSFERABLE:**

##### **A. Notification Of Sale:**

1. Notification And Election: When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the town of the nature of the transaction. The notification shall include either:

a. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or

b. The successor entity's application in compliance with section 7.05.105 of this chapter.

2. Transfer Of Franchise: Upon receipt of a notification and certification in accordance with subsection A1a of this section, the town designee, as provided in subsection 7.05.109 of this chapter, shall send notice affirming the transfer of the franchise to the successor entity. If the town has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with section 7.05.105 of this chapter.

3. If PSC Approval No Longer Required: If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in subsection A1 of this section, and the town has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with section 7.05.105 of this chapter.

B. Events Of Sale: The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with subsection A of this section: a) the sale, assignment or other transfer of all or a majority of a provider's assets to another person; b) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; c) the issuance of additional capital stock or partnership,

membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or d) the entry by a provider into an agreement with respect to the management or operation of such provider or its system.

#### **7.05.108: OVERSIGHT AND REGULATION:**

A. Insurance, Indemnity And Security: Prior to the execution of a franchise, a provider will deposit with the town an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise. A provider shall also indemnify the town as set forth in the franchise.

B. Oversight: The town shall have the right to oversee, regulate and inspect periodically the construction, maintenance, and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the town at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.

C. Maintain Records: A provider shall at all times maintain:

1. On file with the town, a full and complete set of plans, records and "as built" hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the town's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights of way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks which shall include annotations of all rights of ways where work will be undertaken. As used herein, "as built" maps includes "file construction prints". Maps shall be drawn to scale. "As built" maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs. "As built" maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.

2. Throughout the term of the franchise, complete and accurate books of account and records of the business, ownership, and operations of a provider with respect to the system in a manner that allows the town at all times to determine whether a provider is in compliance with the franchise. Should the town reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any

governmental entity that regulates utilities in the state, and generally accepted accounting principles shall be deemed to be acceptable under this section.

D. Confidentiality: If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a protected record within the meaning of the Utah government records access and management act ("GRAMA"), making it available only to those who must have access to perform their duties on behalf of the town; provided, that a provider notifies the town of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.

E. Provider's Expense: All reports and records required under this chapter shall be furnished at the sole expense of a provider, except as otherwise provided in this chapter or a franchise.

F. Right Of Inspection: For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the town at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records, provided that the town shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the town the reasonable costs of an audit if the audit discloses that the provider has paid ninety five percent (95%) or less of the compensation due the town for the period of such audit. In the event the accounting rendered to the town by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the town may accept any amount offered by the provider, but the acceptance thereof by the town shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

## **7.05.109: RIGHTS OF TOWN:**

### **A. Enforcement And Remedies:**

1. Enforcement; Town Designee: The town is responsible for enforcing and administering this chapter, and the town or its designee, as appointed by the governing body, is authorized to give any notice required by law or under any franchise agreement.

2. Enforcement Provision: Any franchise granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation and protection of the public, consistent with the other provisions of this chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund, and rights of termination or revocation.

B. Force Majeure: In the event a provider's performance of any of the terms, conditions or obligations required by this chapter or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, "causes or events not within the control of a provider" shall include, without limitation, acts of god, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

C. Extended Operation And Continuity Of Services:

1. Continuation After Expiration: Upon either expiration or revocation of a franchise granted pursuant to this chapter, the town shall have discretion to permit a provider to continue to operate its system or provide services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this ordinance and the franchise granted pursuant to this chapter.

2. Continuation By Incumbent Local Exchange Carrier: If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

D. Removal Or Abandonment Of Franchise Property:

1. Abandoned System: In the event that: a) the use of any portion of the system is discontinued for a continuous period of twelve (12) months, and thirty (30) days after no response to written notice from the town to the last known address of provider; b) any system has been installed in the rights of way without complying with the requirements of this chapter or franchise; or c) the provisions of subsection 7.05.103 of this chapter are applicable and no franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.

2. Removal Of Abandoned System: The town, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this ordinance, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights of way to their former state at the time such system was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights of way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The town shall have the right to inspect



and approve the condition of the rights of way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.

3. Transfer Of Abandoned System To Town: Upon abandonment of any system in place, a provider, if required by the town, shall submit to the town a written instrument, satisfactory in form to the town, transferring to the town the ownership of the abandoned system.

4. Removal Of Aboveground System: At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this chapter, in any such case without renewal, extension or transfer, the town shall have the right to require a provider to remove, at its expense, all aboveground portions of a system from the rights of way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith.

5. Leaving Underground System: Notwithstanding anything to the contrary set forth in this chapter, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights of way or with the use thereof by any public utility, cable operator or other person.

#### **7.05.110: OBLIGATION TO NOTIFY; PUBLICIZING WORK:**

Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance, and describe the work to be performed.

#### **7.05.111: GENERAL ADMINISTRATIVE PROVISIONS:**

A. Severability: If any provision of this chapter is held by any federal, state or local court of competent jurisdiction, to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law the provision in question shall return to full force and effect and shall again be binding on the town and the provider; provided, that the town shall give the provider thirty (30) days, or a longer period of time as may be reasonably required for a provider to comply with such

a rejuvenated provision, written notice of the change before requiring compliance with such provision.

B. New Developments: It shall be the policy of the town to liberally amend this chapter, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently, or economically serve itself or the public.

C. Notices: All notices from a provider to the town required under this chapter or pursuant to a franchise granted pursuant to this chapter shall be directed to the officer as designated by the governing body. A provider shall provide in any application for a franchise the identity, address and phone number to receive notices from the town. A provider shall immediately notify the town of any change in its name, address, or telephone number.

D. Exercise Of Police Power: To the full extent permitted by applicable law either now or in the future, the town reserves the right to adopt or issue such rules, regulations, orders, or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.

#### **7.05.112: FEDERAL, STATE AND TOWN JURISDICTION:**

A. Construction: This chapter shall be construed in a manner consistent with all applicable federal and state statutes.

B. Applicability: This chapter shall apply to all franchises granted or renewed after the effective date hereof. This chapter shall further apply, to the extent permitted by applicable federal or state law, to all existing franchises granted prior to the effective date hereof and to a provider providing services, without a franchise, prior to the effective date hereof.

C. Other Applicable Ordinances: A provider's rights are subject to the police powers of the town to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the town pursuant to its police powers. In particular, all providers shall comply with the town zoning and other land use requirements.

D. Town Failure To Enforce: A provider shall not be relieved of its obligation to comply with any of the provisions of this chapter or any franchise granted pursuant to this chapter by reason of any failure of the town to enforce prompt compliance.

E. Construed According To State Law: This chapter and any franchise granted pursuant to this chapter shall be construed and enforced in accordance with the substantive laws of the state.

**TITLE 8**  
**PUBLIC UTILITIES**

(RESERVED)

# **TITLE 9**

## **BUILDINGS AND CONSTRUCTION**

Subject	Chapter
Building Code	1
Impact Fees	2

# **CHAPTER 1**

## **BUILDING CODE**

### Section

- 9.01.101: INTERNATIONAL BUILDING CODE ADOPTED
- 9.01.102: INTERNATIONAL RESIDENTIAL CODE ADOPTED
- 9.01.103: NATIONAL ELECTRICAL CODE ADOPTED
- 9.01.104: INTERNATIONAL PLUMBING CODE ADOPTED
- 9.01.105: INTERNATIONAL MECHANICAL CODE ADOPTED
- 9.01.106: INTERNATIONAL FIRE CODE ADOPTED
- 9.01.107: INTERNATIONAL FUEL GAS CODE ADOPTED
- 9.01.108: UBC ABATEMENT OF DANGEROUS BUILDINGS CODE ADOPTED
- 9.01.109: INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED

### **9.01.101: INTERNATIONAL BUILDING CODE ADOPTED:**

The 2006 edition of the International Building Code, as published by the International Code Council, regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said building code, is hereby referred to and adopted as the building code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

### **9.01.102: INTERNATIONAL RESIDENTIAL CODE ADOPTED:**

The 2006 edition of the International Residential Code, as published by the International Code Council, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three (3) stories in height with separate means of egress; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code, is hereby referred to and adopted as the residential code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

### **9.01.103: NATIONAL ELECTRICAL CODE ADOPTED:**

The 2005 edition of the National Electrical Code, as developed by the national electrical code committee of the American National Standards Institute (ANSI), sponsored by the National Fire Protection Association (NFPA), is hereby adopted as the electrical code for Town of Hideout.

### **9.01.104: INTERNATIONAL PLUMBING CODE ADOPTED:**

The 2006 edition of the International Plumbing Code, as published by the International Code Council, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code, is hereby referred to and adopted as the plumbing code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

### **9.01.105: INTERNATIONAL MECHANICAL CODE ADOPTED:**

The 2006 edition of the International Mechanical Code, as published by the International Code Council, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code, is hereby referred to and adopted as the mechanical code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

### **9.01.106: INTERNATIONAL FIRE CODE ADOPTED:**

The 2003 edition of the International Fire Code, as published by the International Code Council, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the town and providing for the issuance of permits for hazardous uses or operations, and each and all of the regulations, provisions, penalties, conditions and terms of said fire code, is hereby referred to and adopted as the fire code

for the town, together with the additions, insertions and changes specifically set forth in this chapter.

**9.01.107: INTERNATIONAL FUEL GAS CODE ADOPTED:**

The 2006 edition of the International Fuel Gas Code, as published by the International Code Council, regulating and governing fuel and gas systems and gas fired appliances; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code, is hereby referred to and adopted as the fuel gas code for Town of Hideout, together with the additions, insertions and changes specifically set forth in this chapter.

**9.01.108: UBC ABATEMENT OF DANGEROUS BUILDINGS CODE ADOPTED:**

The 1997 edition of the UBC Abatement of Dangerous Buildings Code is hereby adopted as the abatement of dangerous buildings code for Town of Hideout.

**9.01.109: INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED:**

The 2006 edition of the International Energy Conservation Code is hereby adopted as the energy conservation code for Town of Hideout.

## **CHAPTER 2**

### **IMPACT FEES**

**(Reserved)**



# **TITLE 10**

## **SUBDIVISION REGULATIONS**

Subject	Chapter
General Provisions	1
Definitions	2
Subdivision Application and Review Process	3
Subdivision Construction and Supplementary Regulations	4

# **CHAPTER 1**

## **GENERAL PROVISIONS**

### Section

10.01.101:	OVERVIEW
10.01.102:	SHORT TITLE
10.01.103:	STATEMENT OF PURPOSE
10.01.104:	INTERPRETATION
10.01.105:	COORDINATION WITH OTHER DOCUMENTS
10.01.106:	ORDERLY DEVELOPMENT REQUIRED
10.01.107:	COMPLIANCE REQUIRED
10.01.108:	AMENDMENTS
10.01.109:	PUBLIC NOTICE
10.01.110:	PENALTIES FOR VIOLATION
10.01.111:	APPEALS

### **10.01.101: OVERVIEW:**

The activities related to the use, sale and development of land have been determined by federal and state law to be in the public interest for local government to oversee and regulate in order to bring about the safe and orderly creation (and maintenance) of communities. These activities may include subdividing land into lots for sale, building structures, constructing roads, constructing trails and/or installing utilities. In order to effectively regulate these activities, communities are empowered to establish review and permitting processes. This title contains the review and permitting processes related to land development activities in the town. This title contains the review and permitting processes for conventional subdivision developments and phased subdivisions.

### **10.01.102: INTERPRETATION:**

(1) Greater Restrictions Prevail: In their interpretation and application, the provisions of this title shall be considered as minimum requirements. Where the provisions of this title impose greater restrictions than any statute, other regulations, ordinance or covenant, the provisions of this title shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provision of this title, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

(2) Definitions: Whenever any word or phrase used in this title is not defined herein, but is defined in related sections of Utah Code Annotated or in this code, such definition is incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term "shall" is always mandatory and the term "may" is permissive.

(3) Severability Of Parts: The various sections, subparagraphs, sentences, phrases and clauses of this title are hereby declared to be severable. If any such part of this title is declared to be invalid by a court of competent jurisdiction or is amended or deleted by the town council, all remaining parts shall remain valid and in force.

(4) Rounding: Rounding to whole numbers may be used to determine distance or height, but not in determining maximum or minimum area or other quantitative standards or requirements. A decimal ending with five (5) or greater may be rounded up to the next whole number.

(5) Time Computation: Unless otherwise specified herein, a period of time specified in this title shall be calendar days beginning on the day after the act, event or decision to which the time period refers and ending at eleven fifty nine o'clock (11:59) P.M. the last day of the time period.

#### **10.01.103: COORDINATION WITH OTHER DOCUMENTS:**

This title, together with the town general plan ("general plan"), the town zoning ordinance ("zoning ordinance"), the town design guidelines ("design guidelines"), and the town standard specifications for design and construction ("standard specifications") shall guide the use of all land within the municipal boundaries of the town.

#### **10.01.104: ORDERLY DEVELOPMENT REQUIRED:**

All subdivisions, site plans, condominiums and other developments shall be developed in an orderly manner and in such a way that the required improvements will be continuous and available as necessary during construction activities within the project, and that all of the improvements will be made available for the full, effective and practical use and enjoyment thereof by the purchaser, grantee, assignee, transferee or lessee of any of the lands developed within the time herein provided or in phases specified. Developments shall be planned and developed to accommodate the continuation of roads, utilities, drainage and other infrastructure to adjoining properties. Over sizing of lines or infrastructure in the development may be necessary to accommodate future development outside of the project.

### **10.01.105: COMPLIANCE REQUIRED:**

(1) No tract of land shall be divided, subdivided, reconfigured, developed or redeveloped except in conformance with provisions of this title, the zoning ordinance and all other applicable ordinances and regulations.

(2) No plat, condominium, subdivision amendment or reconfiguring of property shall be recorded except in accordance with the provisions of this title and the zoning ordinance.

(3) All licenses, permits, agreements and plans issued or approved by the town shall comply with all requirements and standards of town ordinances.

(4) All subdivisions, condominiums, site plans, construction and infrastructure shall be designed and constructed in conformance with town ordinances, engineering regulations and requirements.

(5) All uses shall be conducted in conformance with town ordinances, approved plans and requirements.

(6) Land which is to be subdivided shall not be transferred, sold or offered for sale prior to recording the subject plat or until all requirements of this title for subdivisions, condominiums or other development have been met.

(7) No building permit may be issued for any structure or development on any land that has been divided, subdivided, reconfigured, developed or redeveloped in a manner not in conformance with the provisions of this title, the zoning ordinance, and all other applicable ordinances and regulations.

### **10.01.106: AMENDMENTS:**

(1) The town council may, from time to time and in a manner consistent with the general plan, amend any provision of this title. Amendments shall be approved in accordance with all public notice and public hearing requirements imposed by state law or local ordinance.

(2) Any amendment or revision to this title shall supersede any prior provisions or ordinances. Provisions of this title not affected by the amendment or revision shall continue to be valid and shall not be considered a new enactment when amendments or revisions are adopted. Any prior provisions of town ordinances, which do not conform to provisions of this title, are declared void. Any uses, structures or buildings which were conforming to previous provisions of this title but do not now conform shall be nonconforming uses, structures or buildings.

### **10.01.107: PUBLIC NOTICE:**

(1) Any required public hearing shall be scheduled and held by the applicable land use authority according to the applicable provisions of this title, the zoning ordinance or state law. Notice of required public hearings shall be provided by the town at least ten (10) days before the date of the public hearing by publishing notice of the hearing in a newspaper of general circulation in the town or by giving actual notice of the hearing.

(2) If notice given under the authority of this section is not challenged in accordance with applicable appeal procedures thirty (30) days from the date of the hearing for which the notice was given, the notice is considered adequate and proper. The notice provided in this section may be referred to in this title as "required notice". The cost of required notices shall be paid by the applicant.

### **10.01.108: PENALTIES FOR VIOLATION:**

In addition to denial, suspension or refusal to act on a developer or landowner's request, any person who shall violate the provisions of this title shall be guilty of a class B misdemeanor unless otherwise established by law. Each day of violation shall be considered a separate violation and subject to the penalties of this section or any other law, ordinance or other provision.

### **10.01.109: APPEALS:**

The requirements and procedures for appealing decisions of the town land use authorities in administering or interpreting the town land use ordinances, including this title, are set forth in Section 11.05.104 of this code, and are hereby incorporated herein by this reference.

## **CHAPTER 2**

### **DEFINITIONS**

#### Section

10.02.101: GENERAL  
10.02.102: DEFINITIONS

#### **10.02.101: GENERAL:**

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this title. Words used in the present tense include the future; the singular includes the plural; the word "shall" is mandatory and not directory; the word "may" is permissive. Words used in this title, but not defined herein, shall have the meaning first as defined in any other ordinance adopted by the town and then its common, ordinary meaning.

#### **10.02.102: DEFINITIONS:**

The definitions set forth in Utah Code Annotated section 10-9a-103, as amended, and the zoning ordinance, are hereby incorporated as additional definitions pertaining to this title.

APPLICANT:	The owner of land proposed to be subdivided or such owner's duly authorized agent. Any agent must have written authorization from the owner.
TOWN COUNCIL:	The elected town officials consisting of council members and mayor. Three (3) voting members of the town council constitute a quorum.
TOWN ENGINEER:	The town engineer of the town or his authorized representative.
COMMISSION:	The Town of Hideout planning commission.
COMMISSION'S AUTHORIZED REPRESENTATIVE:	The planning commission chairperson or other town employee or official who has been designated by the commission to represent the town in enforcing or carrying out the

functions of the commission as set forth in this title.

**DESIGN GUIDELINES:**

The document adopted by the town council to direct and guide the aesthetics of development in Town of Hideout.

**DEVELOPER:**

Either:

- a) an applicant for subdivision approval;
- b) an applicant for a building permit or other permit; or
- c) the owner of any right, title or interest in real property for which subdivision approvals are sought.

**DEVELOPMENT AGREEMENT:**

The agreement between the town and the owner/developer that outlines the duties, responsibilities, obligations, commitments and promises of the town and the owner/developer.

**DUST CONTROL PLAN:**

A narrative plan that may include map exhibits prepared by the developer that establishes management practices to be employed and temporary facilities to be installed by developer to control fugitive dust that is released into the air or onto public streets during the construction within the subdivision.

**EASEMENT:**

Authorization by a property owner for the use by another, and for a specified purpose, such as utilities and irrigation ditches, of any designated part of the owner's property. An easement may be for use under, on the surface, or above the owner's property.

**ELECTRONIC FORMAT:**

Drawings, maps, calculations, documents or other data required by the town to be provided on a disk readable by a compatible computer. Types of electronic files including versions

will be as requested by town staff.

FEE SCHEDULE:	The schedule or any appendix of fees adopted periodically by resolution of the town council setting forth various fees charged by the town.
FINAL PLAT:	A map of a subdivision, required of all subdivisions, which is prepared for final approval and recordation, which has been accurately surveyed, so that streets, lots and other divisions thereof can be identified.
GENERAL PLAN:	The Town of Hideout general plan, as adopted, that sets forth general guidelines for proposed future development of the land within the town.
MODEL HOME:	A residential structure that meets all residential occupancy requirements, used for sales purposes only. A subdivision may have up to a maximum of five (5) model homes in any subdivision, provided each has a substantially different floor plan.
OWNER:	Any person who alone, jointly or severally with others, has a legal or equitable title to property.
PLANNING COMMISSION:	The planning commission of the Town of Hideout, Utah.
PUBLIC IMPROVEMENT:	Any street dedications, installations of curb,



gutter, sidewalk, road base and asphalt, water, sewer and storm drainage facilities, or other utility or service required to provide services to a lot, parcel, building or structure.

SECURITY AGREEMENT:

Agreement to install improvements secured by cash bond, cash escrow, an irrevocable letter of credit, or any combination of the preceding as approved by the town council.

TOPOGRAPHIC (TOPO) MAP:

A graphic representation of natural and manmade features of a place or region in such a way as to show their relative positions and elevations.

VICINITY MAP:

A map showing project location relative to the Town of Hideout boundaries, major roads and minor roads that serve the property.

ZONING ORDINANCE:

The Town of Hideout zoning ordinance, as adopted.

# **CHAPTER 3**

## **SUBDIVISION APPLICATION AND REVIEW PROCESS**

### Section

#### **PART 1: APPLICATION PROCESS GENERALLY**

- 10.03.101: PURPOSE
- 10.03.102: APPLICABILITY
- 10.03.103: APPLICATION FORMS AND PROCEDURES
- 10.03.104: PERMITS REQUIRED
- 10.03.105: DEVELOPMENT APPLICATION; INITIATION
- 10.03.106: DETERMINATION OF APPLICATION COMPLETENESS
- 10.03.107: WITHDRAWAL OF APPLICATION
- 10.03.108: REAPPLICATION FOLLOWING APPLICATION DENIAL
- 10.03.109: INSPECTIONS
- 10.03.110: FEES

#### **PART 2: CONCEPT PLAN**

- 10.03.201: ACTION NOT BINDING

#### **PART 3: PRELIMINARY PLAN**

- 10.03.301: REVIEW PROCESS

#### **PART 4: FINAL PLAT**

- 10.03.401: REVIEW PROCESS
- 10.03.402: FINAL PLAT EXPIRATION
- 10.03.403: AMENDING RECORDED PLAT
- 10.03.404: VACATING RECORDED PLAT

#### **PART 5: DEVELOPMENT AGREEMENT**

- 10.03.501: PURPOSE
- 10.03.502: GENERAL REQUIREMENTS
- 10.03.503: APPROVAL
- 10.03.504: RECORDING

#### **PART 1: APPLICATION PROCESS GENERALLY**

#### **10.03.101: PURPOSE:**

Land use applications, and application review procedures, are provided to achieve the purposes of the general plan and all land use ordinances, including this title.

#### **10.03.102: APPLICABILITY:**

A land use application or building permit application, as applicable, shall be required for the establishment of all uses, expansion of uses, and construction or modifications for all buildings and structures located within the town, unless exempt, as provided by the land use ordinances or building code, as adopted. All use and building permit applications shall be presented to the town on the applicable application forms, provided by the town. The type of application presented is at the sole discretion of the applicant.

#### **10.03.103: APPLICATION FORMS AND PROCEDURES:**

The mayor or his/her designee manager shall provide application forms and may identify submittal requirements and processing procedures for the acceptance and filing of all applications required by the land use ordinances and building codes, as adopted.

#### **10.03.104: PERMITS REQUIRED:**

The requirements of all land use ordinances and building codes, as applicable, shall apply to all uses, buildings or structures located, or proposed, within the town. No use, building or structure shall be commenced or occupied unless and until all necessary approvals, permits and licenses have been issued in accordance with all requirements of the land use ordinances and building codes, as applicable.

#### **10.03.105: DEVELOPMENT APPLICATION; INITIATION:**

The procedures for any required approval, permit or license shall be initiated by submitting the appropriate land use application to the zoning administrator.

#### **10.03.106: DETERMINATION OF APPLICATION COMPLETENESS:**

Before a land use application is accepted, the zoning administrator, or his designee, shall determine if the application is complete on its face, i.e., all items listed on the application checklist have been submitted with the application. Only if the application is complete will the application be accepted for review. If the zoning administrator determines that the application is incomplete, the zoning administrator shall identify the application

deficiencies and advise the applicant that no action will be taken by the land use authority, as applicable, until all application deficiencies have been corrected.

#### **10.03.107: WITHDRAWAL OF APPLICATION:**

An applicant may withdraw a land use application at any time prior to a land use authority decision on the application. Application fees shall not be refundable if prior to withdrawal:

- (1) A review of the application by the zoning administrator or technical review committee has commenced; or
- (2) Required notice of a public hearing or public meeting to consider the application with the land use authority has been provided.

#### **10.03.108: REAPPLICATION FOLLOWING APPLICATION DENIAL:**

If a land use application is denied for failure to meet the requirements of the land use ordinances and building codes, a land use application for all or any part of the same property shall not be considered by a land use authority for a period of at least one year from the date of denial, unless the subsequent land use application is substantially different from the previously denied application, the prior denial was based upon a mistake of fact, or on a motion duly passed by the town council to act immediately and identifying a valid public purpose.

#### **10.03.109: INSPECTIONS:**

In order to review information relevant to an application, a land use authority, the zoning administrator and/or other town staff may enter upon any land at reasonable times to make examinations and surveys related to the application.

#### **10.03.110: FEES:**

The town council shall establish, by resolution, a fee schedule for the processing and review of all land use applications required by all land use ordinances, and designed to recover the actual or anticipated costs for the processing of the land use application. The fee schedule may be included in the town consolidated fee schedule, which schedule may be amended from time to time by resolution of the town council. The fee schedule for the processing and review of all land use applications may include a processing fee and an

application fee. Fees shall not be required for land use applications initiated by a land use authority.

## **PART 2: CONCEPT PLAN**

### **10.03.201: ACTION NOT BINDING:**

Meetings with staff do not constitute acceptance of the project and only provide a forum to discuss issues that will assist the developers in preparing a preliminary plan application. Compliance with comments by individual staff members does not grant any vested rights and will not guarantee or imply approval of the preliminary plan or final plat for the subdivision.

## **PART 3: PRELIMINARY PLAN**

### **10.03.301: REVIEW PROCESS:**

(1) Staff Review And Report: The preliminary plan will be reviewed by the zoning administrator and town engineer for general compliance with this title, the standard specifications, the design guidelines and all applicable ordinances. If the application is not complete or not in general compliance, the zoning administrator shall notify the applicant in writing and specify the deficiencies in the application. When the application is complete and in general compliance, the zoning administrator shall forward the completed application to other town staff and departments, and affected government entities and public utilities to obtain comment regarding the application. Town staff will review the preliminary plan, make site visits, discuss engineering issues, and check compliance with the general plan, master plans and municipal ordinances to determine the adequacy of public facilities. The zoning administrator and town engineer shall prepare a staff report, which shall include all review comments by other staff members and all other agencies required to review the application and submittals. The zoning administrator shall forward the completed application and the staff report to the planning commission.

## **PART 4: FINAL PLAT**

### **10.03.401: REVIEW PROCESS:**

(1) Town Attorney Review: The town attorney shall review the final plat and the current title report. The legal description in the title report shall be compared with any legal description in the restrictive covenants, articles, consents and other legal documents. All persons shown on the title report as owners or lien holders must sign and have acknowledged by a notary on the plat unless prior approval is given by the town attorney. All lien holder consents must not only show consent to recording of the plat and any

restrictive covenants, but must also indicate the lien holder's approval of and joiners in the dedication of any public streets or rights of way. The applicant shall also submit the improvement guarantee and any other documents and information required by the town attorney. Once the town attorney has reviewed and is satisfied that the final plat is in compliance with all requirements of this title, he shall sign the final plat.

#### **10.03.402: FINAL PLAT EXPIRATION:**

If the final plat is not recorded within one year from the date of approval, the approval shall expire and the final plat shall be null and void. The town council may grant a one time extension to the recording of the final plat not exceeding six (6) months; provided, that the developer submits the request for extension prior to expiration of the final plat and satisfies any new town requirements pertaining to the public health, safety and welfare.

#### **10.03.403: AMENDING RECORDED PLAT:**

(1) Any landowner whose land has been platted as provided in this title may, upon application to the town, have such plat or portion thereof, or any street or alley therein contained, altered or amended.

(2) The procedure for amending or altering a subdivision plat is the same as for approval of a new subdivision.

#### **10.03.404: VACATING RECORDED PLAT:**

The procedure for vacation of a plat shall be governed by provisions of Utah Code Annotated sections 10-9a-608 and 10-9a-609.

### **PART 5: DEVELOPMENT AGREEMENT**

#### **10.03.501: PURPOSE:**

The developer/property owner and the town may enter into a development agreement that outlines the duties, responsibilities, obligations, commitments and promises of the developer/property owner and the commitments of the town.

#### **10.03.502: GENERAL REQUIREMENTS:**

(1) The development agreement shall be prepared by the town attorney and shall incorporate all agreements between the parties.

(2) The development agreement must be approved prior to final plat recording.

(3) If the developer is including parks, open space, clubhouses and/or trail improvements within a development, the development agreement shall include proposed phasing and terms of completion of these improvements.

(4) Any special agreements, conveyances, restrictions or covenants which govern the use, maintenance and continued protection of common areas shall be included in the development agreement.

(5) The development agreement may provide limitations on the number of building permits issued and/or phases of the project to be approved subject to the completion of the improvements.

(6) The development agreement for phased subdivisions shall incorporate the phased subdivision master plan.

(7) The development agreement shall include any provisions for security for completion of the subdivision improvements and/or schedule of utility construction and restoration bond requirements.

(8) If the development is a phased subdivision, the development agreement shall specify all conditions and requirements that must be met in order to protect and maintain a vested approval for all subsequent phases. For example, the town may impose as a condition precedent to final approval of subsequent phases, the availability and access to water and sewer services and source sufficient to accommodate the subsequent phases.

### **10.03.503: APPROVAL:**

The development agreement shall be approved by the town council and signed by the mayor.

### **10.03.504: RECORDING:**

The development agreement shall be recorded by the town at the Wasatch County recorder's office. Recordation by the town shall only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees posted. The development agreement must be recorded prior to the recording of the final plat.

## **CHAPTER 4**

### **SUBDIVISION CONSTRUCTION AND SUPPLEMENTARY REGULATIONS**

Section

#### **PART 1: GENERAL PROVISIONS**

10.04.101: MUST PROVE RIGHT TO ACCESS  
10.04.102: INSPECTIONS

#### **PART 1: GENERAL PROVISIONS**

##### **10.04.101: MUST PROVE RIGHT TO ACCESS:**

Applications for new developments must show proof that they have secured legal access to their property when their property does not abut to a public road in order to be considered for approval.

##### **10.04.102: INSPECTIONS:**

(1) Frequency: Construction work involving the installation of public improvements in subdivisions and other developments shall be subject to the inspection of the public works director and town engineer or his/her designee.

(2) Requests For Inspection: Requests for inspections shall be made to the town engineer by the person responsible for the construction. Requests for inspection on work shall be made one working day prior to the commencement of the work. Inspections shall be made by the town engineer after various phases of the construction work are completed. Any faulty or defective work shall be corrected by the developer or the developer's contractor within a period of thirty (30) days from the date of the town engineer's written notification to the developer that correction of the faulty or defective work is required.



# **TITLE 11**

## **ZONING REGULATIONS**

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# **CHAPTER 1**

## **GENERAL PROVISIONS**

### Section

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- 11.01.121: CODIFICATION, INCLUSION IN CODE, AND SCHRIVENER’S ERRORS
- 11.01.122: ADMINISTRATIVE DETERMINATION FOR USES NOT LISTED
- 11.01.123: ADMINISTRATIVE REVIEWS, CERTIFICATES AND PERMITS

### **11.01.101: SHORT TITLE:**

This Title shall be known as the Hideout Land Use and Development Code, and may be so cited and pleaded. Whenever a reference is made to this code as the Hideout Land Use and Development Code, or to any portion thereof, or to any ordinance of the Town of Hideout, Utah, codified herein the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

### **11.01.102: INTENT:**

It is hereby declared to be the intent of the Hideout Legislative Body that this Title and the regulations set forth herein shall be so construed as to further the purpose of this Title and promote the objectives and characteristics of the respective zones.

### **11.01.103: PURPOSE – GENERAL PROVISIONS:**

This Title and the regulations and restrictions contained herein are adopted and enacted for the purpose of promoting the health, safety, welfare, prosperity, improved morals, peace, good order, comfort, convenience and aesthetics of the present and future inhabitants of the Town of Hideout and to:

A. Guide the future growth and development of the Town of Hideout, in accordance with the Hideout General Plan;

B. Provide for adequate open space, light, air, air quality, privacy, safety from fire, flood, landslides and other geologic hazards, and other dangers and to try to prevent overcrowding of the land, and to lessen traffic congestion;

C. Protect and conserve the character and stability of the Town of Hideout, and to encourage the orderly development of the land;

D. Protect and conserve Hideout property values and minimize conflicts among uses of the land and structures;

E. Establish public and private policy that encourages action to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public facilities;

F. Establish reasonable standards of design and procedures for development;

G. Create an atmosphere attractive to visitors and residents;

H. Fully exercise all of the powers granted to the Town of Hideout by the provisions of the Utah Code Annotated (10-9a-101 et. seq.) Municipal Land Use Development and

Management Act, and all other powers granted by statute or by common law for the regulation of land uses and improvements;

I. Protect and enhance the quality of life in general for Hideout residents;

J. Allow development in a manner that encourages the preservation of scenic values and minimizes the impact on natural resources in Hideout;

K. Provide for well-planned commercial and residential centers, efficient traffic circulation, and efficient use of town services;

L. Regulate development that may add to existing geologic hazards, erosion, flooding or other conditions that create potential dangers to life and safety in the community or detract from the quality of life in the community;

M. Require new development to be fiscally responsible by providing all required improvements and adequately mitigating any impacts to the Town of Hideout;

N. Establish Zone Districts within which the Legislative Body may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures and the uses of land; and

O. Provide methods of administration and enforcement of this Title and provide penalties for the violation thereof.

#### **11.01.104: CODE NUMBERING:**

The chapter numbering and designation of this code is adopted as the official chapter numbering and designation for the Hideout Land Use and Development Code. The title, chapter and section headings or numbers contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section of this Title.

### **11.01.105: AUTHORITY PROVISIONS:**

It is hereby declared to be within the authority of the Town of Hideout to approve the subdivision and development of land, amendment of plats, or adjustment of lot lines, rezoning of property, amendments to the Hideout General Plan, and approval of site plans pursuant to the guidance of the Hideout General Plan and Land Use Code, for the orderly, planned, efficient and economic development of the Town of Hideout.

### **11.01.106: LICENSE TO CONFORM:**

All departments, officials, and employees of the Town of Hideout that are vested with a duty or authority to issue permits and licenses shall do so in conformance with the provisions of this Title. No permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this Title. A permit or license, if issued in conflict with the provisions of this Title, shall be null and void.

### **11.01.107: BUILDING PERMITS REQUIRED:**

No building or structure shall be constructed, reconstructed, altered or moved, except after the issuance of a permit for the same by the Building Department, unless exempted by State Law.

### **11.01.108: BUILDING PERMITS – PLOT PLAN REQUIRED:**

1. All applications for building permits for new construction (and not interior remodels) shall be accompanied by:

(a) A plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of existing buildings, buildings to be erected, and existing buildings on adjacent property and such other information as may be deemed necessary by the building Inspector or the Planning Department for the enforcement of this Title.

(b) When property boundaries are unclear or undetermined, a complete and accurate legal description of the property, which is the subject of the application,

together with a certified survey of the property showing any conflict with adjoining property, overlaps or discrepancies between the legal description, and any existing fence lines.

#### **11.01.109: PERMITS TO COMPLY WITH LAND USE REGULATIONS:**

1. Permits shall not be granted for the construction, reconstruction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building, or structure if such construction, alteration, moving, or change in use violates any of the provisions of this Title.
2. No sewer service line and/or wastewater treatment facility, no water service line and/or water facility, or electrical utilities shall be installed to serve such premises if such use violates this Title.

#### **11.01.110: CERTIFICATE OF OCCUPANCY AND ZONING COMPLIANCE:**

A. Unlawful to Occupy. It shall be unlawful to use or occupy, or to permit the use or occupancy of any building or premises until a Certificate of Occupancy and Land Use Compliance shall have been issued for the premises and/or building by the Town of Hideout. It shall also be unlawful to occupy any building which has greater intensity of use or different occupancy than provided for specifically in the Certificate of Occupancy and Land Use Compliance.

B. Issuance of Certificates. A Certificate of Occupancy and Land Use Compliance, is required to be issued by the Planning Department of the Town of Hideout at the time a building is completed and final inspection granted by the Building Inspection Department. In addition, a new certificate shall be required at any time the occupancy of the building changes to a more intensive use or that the number of occupants in an apartment building or multiple residential building increases more than five (5) percent above the number declared in the previously-issued certificate.

C. Information Required on Certificates. The following information shall be made a part of any application for a Certificate of Occupancy and Land Use Compliance issued by the Town of Hideout Planning Department.

1. Residential Certificates.

(i) The number of residential units in the building or buildings. (If there is more than one building, the number of units should be listed separately for each building).

(ii) Number of families residing or anticipated to live in the building.

(iii) The number of legal off-street parking spaces, sized to conform to this Title and being provided on the premises.

(iv) A signed certification of the property owner of the building or premises, or his authorized agent, stating that the information contained in the application is accurate and that the stated conditions will be maintained on the premises.

(v) A notice directed to the owner of the building or premises that any change in the intensity of use of the building or premises, or an increase of more than five (5) percent in the number of occupants in an apartment building or multiple residential building, will require the issuance of a new certificate.

2. Commercial, Industrial, and Institutional Certificates.

(i) The proposed maximum number of employees on the premises.

(ii) The number of off-street parking spaces sized to conform to this Title and provided for employees on the site.

(iii) The number of off-street parking spaces sized to conform to this Title and provided for customers or visitors.

(iv) The number and type of restroom facilities provided.

(v) The square foot area within the building used for each separate type of occupancy.

(vi) A signed certificate by the owner of the building or premises or his authorized agent stating that the information and conditions set forth in the application are true and will be maintained upon the site in this condition.

(vii) A notice directed to the owner of the premises that a change in intensity of use of more than five percent increase in the intended occupancy of the building will require the issuance of a new certificate.

### **11.01.111: NUISANCE:**

The Town of Hideout may avail itself of all remedies available at law or in equity to abate any nuisance or public nuisance. Each of the following acts is hereby declared to be a nuisance and may be abated in as such:

- A. Any act which constitutes a nuisance or public nuisance under state law;
- B. Engaging in a use or activity that is not permitted in the zone where the use or activity is located;
- C. The occupation of any building or structure for which a Certificate of Occupancy and Land Use Compliance has not been issued; and
- D. The occupation or use of a building or structure with a greater density or intensity of use than is permitted in the Certificate of Occupancy and Land Use Compliance.

### **11.01.112: CONSTRUCTION AND USE TO CONFORM TO PLANS:**

Building permits or Certificates of Occupancy and Land Use Compliance, issued on the basis of plans and specifications approved by the Building Inspector, authorizes only the use, arrangement, and construction set forth in the approved application, plans and specifications and no other use, arrangement, or construction. The use, arrangement, or construction at variance with that authorized in said plans and specifications shall be



deemed a violation of this Title and shall be punishable as provided in [Section 11.03.104](#) Hideout Land Use and Development Code.

### **11.01.113: EXPIRATION OF APPROVALS:**

A. Building Permits. A building permit shall expire if construction is not begun within one year (1) from the date the building permit was issued. A building permit shall expire if construction is not completed and a Certificate of Occupancy and Land Use Compliance obtained within two (2) years from the date the building permit was issued. The Building Department may, for good cause shown, extend the expiration date for a period of time not to exceed one (1) additional year.

B. Preliminary Approvals of Developments. Preliminary approvals of developments shall expire if application for Final Approval has not been submitted for consideration within three (3) years from the date of receiving Preliminary Approval. An extension not to exceed two (2) additional years upon a finding of good cause.

C. Final Development Approvals. Final Approval of developments shall expire if the Plat is not recorded within three (3) years from the date of receipt of Final Approval by the legislative body. The Planning Commission may grant a two (2) years extension upon a showing of good cause.

### **11.01.114: EFFECT OF CC&Rs:**

Enforcement of private covenants, conditions and restrictions shall not be the responsibility of the Town of Hideout.

### **11.01.115: EFFECT OF PRIOR ORDINANCES:**

Uses which were commenced legally prior to the adoption of this Title, or for which permits were properly issued and are acted upon in a timely manner, shall, to the extent they do not conform to this Title, be considered as non-conforming uses, and shall not be affected hereby. Uses, which were unlawful prior to the enactment of this Title, shall not become legal by the enactment of this Title.

**11.01.116: FRACTIONAL NUMBERS:**

Any computation or measurement resulting in a fractional number shall be rounded to the closest whole number. For example twenty three and three-quarters (23.75) inches would be rounded to twenty four (24) inches.

**11.01.117: PAYMENT OF FEES:**

Any application for approval by the Planning Staff or Planning Commission shall not be considered complete or accepted until the applicant has submitted a complete application, including payment of all fees as required by Title. Fees paid shall be non-refundable. Payment of the appropriate fee is no guarantee that the proposal will be approved.

**11.01.118: EFFECT ON GOVERNMENTAL ENTITIES:**

In accordance with the laws of the state, the provisions of this title shall not apply to the properties owned by the state, or the United States government; however, any person, firm or corporation who may obtain such properties by purchase, lease or other arrangement with the state shall utilize such properties in accordance with regulations as set forth in Utah Code Annotated.

**11.01.119: CLASSIFICATION OF ANNEXED TERRITORY:**

All property hereafter annexed to the town shall be classified as Resort Specially Planned Area (RSPA), and all of the zone regulations shall apply thereto until such time that a public hearing is held to consider a change in classification thereof. Such hearing and classification shall be considered in the same manner as set forth in chapter 4 of this title pertaining to the amendment of this title.

### **11.01.120: ESTABLISHMENT OF ZONES:**

The municipality is divided into zoning districts as shown on the map entitled, "Zoning Map of the Town of Hideout, Utah", which map and boundaries, notations, references and other information shown thereon shall be as much a part of this title as if the information and matters set forth by the map were all fully described herein.

### **11.01.121: CODIFICATION, INCLUSION IN CODE, AND SCHRIVENER'S ERRORS:**

It is the intent of the Hideout Legislative Body that the provisions of this Title may become and be made part of a Hideout Municipal Code as adopted; and that sections of this Title may be re-numbered or re-lettered and the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Hideout Municipal Code is accomplished, sections of the Title may be re-numbered or re-lettered and typographical errors which do not affect the intent may be authorized by the Town of Hideout without need of public hearing by filing a corrected or re-codified copy of the same with the Hideout Clerk office.

### **11.01.122: ADMINISTRATIVE DETERMINATION FOR USES NOT LISTED:**

Determination as to the classification of uses not specifically listed in this title, shall be made by the zoning administrator and shall be subject to appeal to the board of adjustment as set forth in chapter 5 of this title. The procedure shall be as follows:

A. Request For Determination: A written request for such a determination shall be filed with the zoning administrator. The request shall include a detailed description of the proposed use and such other information as may be required.

B. Investigation: The zoning administrator shall thereupon make such investigations as are deemed necessary to compare the nature and characteristics of the proposed use with those of uses specifically listed in this title, and shall make a determination of its classification based on these investigations.

C. Determination; Time Limit: The determination of the zoning administrator shall be rendered in writing within a reasonable time. The determination shall state the zone

classification in which the proposed use will be conditional or permitted, as well as the findings which established that such use is of the same or similar character as uses permitted in that zone classification. Upon making this decision, the zoning administrator shall notify the applicant in writing of the decision.

D. Decision Permanent Public Record; Status: The determination and all information pertaining thereto shall be assigned a file number classifying it as an administrative determination and shall become a permanent public record in the planning department. Such use shall become a permitted or conditional use in the class of district specified in the determination, and shall have the same status as a permitted or conditional use specifically named in the regulations or the zone classification.

### **11.01.123: ADMINISTRATIVE REVIEWS, CERTIFICATES AND PERMITS:**

A. Zoning Review For Building Permits And Business Licenses: All applications for building permits shall be submitted to the community development department for zoning review. Such review shall assure compliance with the requirements of this code. The application for a building permit shall be accompanied by a plot plan showing lot lines and dimensions, locations of structures and improvements, building elevations, and all data necessary to ensure provisions of this code are met. The building department shall not issue any building permit until approved by the building official.

B. Conditional Use Permit: Applications for a conditional use permit shall be submitted to the planning department as provided for in this title. The planning commission chair shall assure completeness and prepare submittal for review and action by the planning commission. Permits approved by the planning commission shall be issued by the planning commission chair.

C. Zoning Amendments: Requests for amendments or changes to the zoning ordinance or zoning district map shall be initiated with the planning commission chair. The amendment process shall proceed as provided for in this title.

D. Home Occupations: Home occupation permits and applications for a home occupation permit shall be presented for review and approval to the planning commission chair. Upon such approval, the planning commission chair is authorized to issue a land use permit as described in this title.

## **CHAPTER 2 DEFINITIONS**

### **Section**

11.02.101: DEFINITIONS

11.02.102: PURPOSE

### **11.02.101: PURPOSE:**

For the purposes of this Title, the following terms and words and their derivations shall have the meaning as given herein. When inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and the plural the singular. Shall is always mandatory. Words not included herein, but which are defined in the building code shall be construed as defined therein. Words which are not included herein or in the building code shall be given their usual meaning as found in an English dictionary, unless the context of the words clearly indicates a different meaning. Definitions of words applicable particularly to certain chapters may be included in those chapters. All terms used in this Title which are not specifically defined herein are to be given their usual and standard definition. Disputes as to the definition of a term not specifically defined herein shall be referred to the Board of Adjustment for resolution.

### **11.02.101: DEFINITIONS:**

The following words shall have the described meaning when used in this ordinance, unless a contrary meaning is apparent from the context of the word:

(1) Accessory Building. A building or structure, the use of which is incidental and subordinate to the main building and more than ten feet away from any main building or structure.

(2) Accessory, Residential Dwelling for Non-Residential Uses. A dwelling unit accessory to a non-residential use located on the same premises, to be used solely for persons employed on the premises.

(3) Accessory, Residential Unit. A secondary dwelling unit attached to the existing single family dwelling with accessibility between the unit and main dwelling solely for the housing of a blood relative, which shall not be a rented unit.

(4) Accessory Use. A use that:

- (a) is customarily incidental to and found in connection with a principal or main use;

- (b) is subordinate to and serves a principal or main use;

- (c) is subordinate in extent, area, or purpose to the principal or main use;

- (d) is located on the same lot as the principal or main use; and

- (e) contributes to the comfort, convenience, or necessity of occupants, business, or industry of the principal or main use.

(5) Agriculture. The act or science of cultivating the ground, the act or science of the production of plants and animals useful to man or beast; and includes gardening or horticultural fruit growing, storage and marketing.

(7) Alteration. Any change or rearrangement in the supporting members of an existing structure, such as bearing walls, columns, beams, girders, or interior partitions, or any change in the dimensions or configurations of the roof or exterior walls, as well as any change in doors, windows, means of ingress or egress, or any expansion or diminution of a building or structure.

(8) Altered. Any change in the construction or addition to a building that increases the capacity or changes the use.

(9) Athletic, Tennis, or Racquet Club. An establishment providing facilities for physical development, exercise, sports, or recreation. Facilities may include exercise equipment, indoor and/or outdoor racquetball or tennis courts, jogging track, swimming pools, skating rink, indoor bathing, restaurant or snack bar, and sales of athletic equipment. Facilities may be open to the public for a fee, or available only to persons holding membership.

(10) Auto Repair. A building or premises used for the repair of any passenger auto, pick-up truck, semi-tractor, recreational vehicle or similar vehicles where the repair includes but is not limited to the rebuilding of engines, transmissions or differentials.

(11) Auto Wrecking, Salvage Yard. See also junkyard. Any lot, portion of lot or tract of land used for the storage and keeping of salvage, including scrap metals or other scrap material, or for dismantling or demolition of automobiles or equipment, machinery or parts thereof; provided that this definition shall not be deemed to include such uses which are clearly accessory and incidental to any agricultural use permitted in the district.

(12) Average Slope. The average slope of a parcel of land or any portion thereof shall be computed by applying the formula:

$$S = 0.00229 \frac{IL}{A}$$

A. to the natural slope of the land before any grading is commenced, as determined from a topography map having a scale of not less than one inch equaling one hundred (100) feet and a contour interval of not less than five (5) feet, where:

S = Average percent slope

0.00229 = A conversion factor of sq. feet to acres

I = Contour interval, in feet

L = Summation of the length of contour lines, in feet within the subject parcel

A = Area in acres of the parcel or any portion thereof.

(13) Barn / Agricultural Building. An accessory structure upon a lot customarily used for the housing of animals/livestock, storage of crops or feed, and/or machinery used in bona fide agricultural activities.

(14) Batching Apartment. A dwelling unit occupied by three (3) or more batching singles who are jointly utilizing the kitchen facilities of the dwelling unit.

- (15) Batchling Singles. Three (3) or more unrelated persons who are occupying a dwelling unit.
- (16) Bed and Breakfast. A single-family residence Occupied by an owner-operator, with no more than eight (8) bedrooms located in the main residence, providing temporary accommodations (for compensation) on a nightly basis, not to exceed thirty days.
- (17) Big Box Retail. Any single retail store with a gross main floor area of over forty thousand (40,000) square feet.
- (18) Block. An area of land entirely bounded by streets.
- (19) Bond: A document that complies with the standards contained in this Title and the state code, and which binds the parties thereto to take certain action if particular conditions are not met.
- (20) Buildable Envelope. A three dimensional space on a lot within which a structure is permitted to be built. The space does not include any required yard or open space. Buildable areas must be defined on subdivision plats.
- (21) Building, Detached. A freestanding building that has open space on all four sides.
- (22) Building Height. The vertical distance measured from the corresponding natural grade point to the highest point of the roof.
- (23) Building Inspector. The individual(s) appointed by the Town of Hideout to enforce the provisions of the building code.
- (24) Building, Main. The building or buildings on a site which house(s) the main use.
- (25) Building Official. The Town of Hideout Building Official.
- (26) Building, Public. A building owned and operated or owned and intended to be operated by a public agency of the United States of America, or the State of Utah or any of its subdivisions including county and municipality in connection with a public use.



(28) Caliper. A standard for trunk measurement of nursery stock, determined by measuring the diameter of the trunk six (6) inches above the ground for up to and including five (5) inch caliper size, and twelve (12) inches above the ground for larger trees.

(29) Carport. A covered automobile parking space that is not completely enclosed by walls or doors.

(30) Child-Care, Center. A childcare facility that regularly provides custodial care for six (6) or more children during the part of any day.

(31) Child-Care, Home. A childcare facility operated on residential premises.

(33) Church or Temple. A building, together with its accessory buildings and uses, where persons regularly assemble for worship, which building, together with its accessory buildings and uses, is maintained and controlled by a religious body.

(34) Civil Engineer. A professional engineer registered in the State of Utah to practice in the field of civil engineering.

(35) Clinic, Dental and Medical. A building in which a group of physicians, dentists, and allied professional assistants are associated for the carrying on of their professions including a dental or medical laboratory. Clinic does not include inpatient care or operating rooms for major surgery.

(36) Club, Limited Membership. A building or other structures constructed in accordance with a properly approved plan and used as an integral part of a park or large scale development and operated by an organized association of persons for social, fraternal, religious, or patriotic purposes for the benefit of the members and guests and not for the general public, and may include eating facilities, club administrative offices, off-street parking and retail establishments for the sale of goods and services consumed on the premises. It may also include auxiliary recreational facilities such as swimming pools, gymnasiums, tennis courts and hunting preserves, but a limited membership club shall not include sleeping accommodations nor facilities which are open to use by the general public.

(37) Clustering. A subdivision or development design technique that concentrates the buildings or lots on a part of the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive areas.

(38) College. An independent institution of higher learning offering a course of general study.

(39) Common area. An area of common ownership designed to serve the recreational, open space or other similar needs of two or more lots or dwelling units in separate ownership.

(40) Community Use. The uses that have the primary purpose of serving the educational, recreational, religious or governmental needs of the community in general. Such uses may include churches, public and private educational institutions, private non-profit recreation grounds, public parks, public buildings, public facilities, cemeteries and other similar uses. This definition shall not include such uses as detention facilities, half way houses, alcohol rehabilitation centers, and other similar uses.

(41) Conditional Use. A land use that because of its unique characteristics, or potential impact on the Town of Hideout and/or surrounding neighbors or adjacent land uses, may be allowed, allowed with conditions, or denied in designated zoning districts, based on compliance with standards and criteria set forth in this Land Use Ordinance for those uses.

(42) Condominium. The ownership of a single unit in a multi-unit project or structure which may be combined with an undivided interest in the common areas and facilities of the property and meeting all requirements of the Condominium Ownership Act of the State of Utah.

(43) Condominium Project. A project planned in accordance with the Utah Condominium Ownership Act, including, without limitation, all units, limited common area, and common area within the project.

(44) Conservation Easements. An easement voluntarily placed on property to ensure that no future development will occur. The easement will be held by a third party and maintained in perpetuity.

(45) Convenience Store. A building that contains less than five thousand (5,000) square feet and is primarily engaged in the provision of frequently needed, day to day retail goods including gasoline, food and non-food products.

(47) Density. The number of Equivalent Residential Units per acre.

(48) Developer. Any person or entity proposing to divide land for the purposes of selling smaller parcels, or any person or entity proposing to change or increase the use of a tract of land in the Town of Hideout.

(49) Developable Area. The portion of a site or building lot that is not within any areas considered to be physical constraints or within required setbacks. In the case of raw ground developable would mean areas that can be serviced by required infrastructure including roads, sewer and water.

(50) Development. The total area of the parcel of land on which a building permit is to be issued, or the total area of property being improved.

(51) Drainage Ditch. Any system of canal(s) or ditch(es) naturally existing or constructed to carry surface and/or subsurface water to a natural stream, whether or not the ditch(es) or canal(s) carry water filed upon by individual(s) to be used for irrigation purposes.

(52) Driveway. A private roadway for access of vehicles to a residence, parking space, garage or other structure.

(53) Dwelling. A building or portion thereof designed or used for residential occupancy, including one-family, two-family, multi-family, and apartment structure; but shall not include boarding, rooming, or lodging houses, tents, trailers, mobile home parks, motels, motor courts, motor lodges, cottage camps, or similar structures designed or used primarily for transient residential uses.

- (54) Dwelling, Multiple Family Unit. A building arrangement designed for and/or occupied by three or more families.
- (55) Dwelling, Single Family Attached. A dwelling unit sharing a common wall or walls, but located on an individual lot.
- (56) Dwelling, Single Family Detached. A building designed for and occupied exclusively by one family on a separate lot and not sharing any common wall.
- (57) Dwelling, Two Family. Two dwellings sharing a common wall or walls and located on one lot.
- (58) Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.
- (59) Engineering Geologist / Geotechnical Engineer. A licensed geotechnical or geological engineer concerned with the application of geological knowledge to engineering problems.
- (60) Environment. The sum total of the surroundings, which includes both natural and man-made elements.
- (61) Equivalent Residential Units. The number of residential equivalents to determine density based on sewer, water and square footage of a structure.
- (62) Excavation. The mechanical removal of earth material.
- (63) Expansion. An increase in the size of an existing structure or use, including physical size of the property, building, parking and other improvements.
- (64) Family. An individual or two or more persons related by law, blood, marriage, or adoption or up to two unrelated persons, living together in a single dwelling unit and maintaining a common household.

(65) Family Care Home. A dwelling wherein room, board, care, and supervision are provided by the resident family in a home setting to persons who are handicapped, mentally ill, or mentally retarded and who are provided with a program of services including training in vocational and recreational activities. To qualify, the dwelling must be approved or operated by an agency of the Utah State Government.

(66) Family Day-Care Center. A dwelling or place of business wherein a resident family provides ordinary care and supervision during customary daytime periods to non-related persons. To qualify for a Day-Care Center, an agency of Utah State Government must approve the dwelling or place of business

(67) Family Food Production. The production of food through gardening or horticulture, for the sole use of the family occupying the premises. The raising of animals or fowl is not included in this definition.

(68) Farm. A business enterprise in which land is used for the production of food, feed, or fiber.

(69) Farm Animals. Animals and fowl such as commonly used for food or fiber production or as a beast of burden, for commercial purposes or for pleasure.

(70) Farm Industry. The keeping and raising of farm animals and/or fowl for domestic or commercial use such as fur farms, livestock feed yards, pig farms, dairy farms, stables, ranches, and similar uses, and accessory uses thereto.

(71) Fast Food Eating Establishment. Any establishment where foods or beverages are prepared for consumption and consumption occurs in either the building, on the premises or within a motor vehicle parked thereon, or off-premises and whose operation includes one or more of the following characteristics:

(a) Food or beverages are served to the occupants of a motor vehicle while seated therein (e.g., drive-through window or drive-in); and

(b) Food and beverages are usually served over a general service counter for the customer to carry to a seating area within the restaurant, to a motor vehicle, or off-premises.

(72) FEMA. An acronym for the Federal Emergency Management Agency.

(73) Fence. A structure erected to provide privacy or security that defines a private space or is used to constrain domestic animals.

(74) Fence, Sight-Obscuring. A fence that is three (3) feet or more in height that is constructed or planted in such a fashion that causes fifty (50) percent or more opaqueness at any angle of view through such fence.

(75) Fill. Earth material that has been deposited by artificial means.

(76) Final Plan. A plan of development showing the layout and dimensions of the streets, easements, common areas and other features of a development in accurate detail, prepared in accordance with the Town of Hideout Design and Construction Standards Handbook.

(77) Final Plat. A plat or plats of a development that has been prepared for recording purposes in accordance with the applicable standards.

(78) Flood, Base - 100 Year Flood. The flood from whatever source having a one (1) percent chance of being equaled or exceeded in any given year, otherwise commonly referred to as the one hundred (100) year flood.

(79) Flood Channel. A natural or artificial water course with definite bed and banks to confine and conduct flood water.

(80) Flood Plain. Zone a hundred (100) year flood area) areas as defined in FEMA's Federal Insurance Rate Map of the Town of Hideout.

(81) Floor Area. The sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior faces of the exterior walls.

(82) Foster Home. A dwelling unit where minor children, not related by blood, marriage or adoption, are cared for and furnished board and room with or without compensation on a continuing basis.

(83) Fraternal & Benevolent Society. A chartered, nonprofit social club or lodge with or without dining facilities and cocktail lounges composing a branch of a fraternal order, or society such as Elks, Masons, American Legion, Eagles, Optimists, Odd Fellows, Kiwanis, Rotary, and other similar nonprofit fellowship organizations which are open only to members and their duly authorized guests.

(84) French Drain. A sump or trench filled with crushed rock or gravel intended to receive storm water discharge.

(85) Frontage. The distance between the two side lot lines of a parcel measured along the street, or streets of a corner lot, which the parcel is allowed to access. For purposes of this Title, temporary turn-arounds, dead ends of roadways, or emergency accesses shall not be used as frontage.

(86) Garage, Private. An attached or detached building accessory to a dwelling on the premises designed or used for the storage of private passenger automobiles owned and used by the occupants of the building to which it is accessory.

(87) Garage, Public. A building or portion thereof, other than a private garage, designed or used for the storing, servicing, repairing, equipping, hiring, or selling of motor-driven vehicles.

(88) Garage, Yard Sale. The sale of personal belongings in a residential zone, which sale is conducted by a legal resident of the premises.

(89) Gasoline, Retail. A building or premises used for the sale of gasoline and limited amounts of other oil products. Such premises may also include the sale of food products.

(90) General Plan. A coordinated plan which has been prepared and adopted by the Town of Hideout for the purpose of identifying present and future needs of the Town of Hideout and guiding the growth and development of land within the Town or any part of the town, including uses of land for urbanization, trade, industry, residential, agricultural, wildlife habitat, and other purposes.

(91) Grade, Natural. A measurement of the degree of slope on the undisturbed, natural surface of the ground.

(92) Grade, Finish. A measurement of the degree of slope on the disturbed surface of the ground.

(93) Grading Plan. A topographic development plan prepared by a registered civil engineer showing contours for before and after grading.

(94) Grouping of Residential Lots. A development design technique that concentrates the lots in specific areas on a site to allow remaining land to be used for recreation, common spaces, or the preservation of historically or environmentally sensitive features.

(95) Gross Floor Area. The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, but not including interior or exterior parking spaces, or loading space for motor vehicles.

(96) Guest. A person or persons staying or receiving services for compensation at a hotel, motel, rooming house, rest home, timeshares or similar use.

(97) Handicapped Person. A person who has a severe, chronic disability attributable to a mental or physical impairment or to a combination of mental and physical impairments, which is likely to continue indefinitely, and which results in a substantial functional limitation in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and who requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that are individually planned or coordinated to allow the person to function in, and contribute to, a residential neighborhood.

(98) Hard Surface. An impermeable, dust-free surface such as concrete or asphalt. Road base does not qualify.

(99) High Water Table. A condition where the ground water is less than six (6) feet below the ground surface.



(100) Home Occupation. A nonresidential activity, conducted entirely within a dwelling unit, which is clearly incidental and secondary to the use of the dwelling for residential purposes.

(101) Homeowners Association. An incorporated non-profit organization operating under recorded land agreements through which: (a) each lot/home owner is automatically a member; and (b) each lot is automatically subject to a proportionate share of the expenses for the organization's activities and interest, such as maintaining and operating open spaces, landscaping, common property or facilities.

(102) Hotel. A building containing guest rooms in which lodging is provided for compensation to transient or permanent guests or both, and where no provision is made for cooking in the guest rooms, and in which commercial services may be provided for guests.

(103) Household Pets. Animals or fowl ordinarily permitted in the house and kept for company or pleasure and not for profit, such as dogs, cats, and canaries, but not including a sufficient number of dogs to constitute a kennel. Household pets shall not include chickens or any animals that are capable of inflicting harm or discomfort or endangering the health, safety, or welfare of any person or property. The number of household pets shall be limited to that allowed by the provisions of each respective zone as set forth in this Title.

(104) Illegal Lot. An illegal lot is any lot or parcel of land which was not created in conformance with the Town of Hideout ordinance in effect at the time the lot was recorded.

(105) Junk. Any scrap, waste, reclaimable material or debris whether or not stored or used in conjunction with dismantling, processing, salvage, storage, disposal or other use or disposition. Junk includes but is not limited to, tires, furniture, tools, paper, rags, plastics, cordage, scrap iron or other metal, glass, building materials, machinery and appliances or parts thereof, brush, wood and lumber, solid waste, and vehicles and parts thereof.

(106) Junkyard. An open area where junk, used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. An automobile wrecking yard or a

salvage yard is also considered a junkyard. The use of buildings used in conjunction with an operation does not exclude the operation from the definition unless the operation is wholly within the buildings and there is no outside storage.

(107) Kennel. An establishment having three or more dogs, cats or other household pets for the purpose of boarding, breeding, buying, letting for hire, training for fee or selling.

(108) Landscaping. The installation of plant materials (i.e., lawn, ground covers, annuals and perennial flowering plants, vines, shrubs, and trees), planted directly on the property.

(109) Limits of Disturbance. The area(s) in which construction and development activity must be contained, including development and construction of the principal building and permitted accessory structures, play areas, and on-site septic tanks, utilities, drainage, and other services.

(110) Livestock Corral. A place or pen where livestock are kept as part of an agricultural or livestock operation as distinguished from a livestock feed lot.

(111) Livestock Feed Lot. A feeding operation on a parcel of land where livestock are conditioned for market on a year-round basis and where the feed is brought to the yard, as contrasted to feed obtained through grazing the animals on the premises.

(112) Lot, Area. The horizontal area within the exterior lines of the lot, exclusive of any area in a public or private way open to public uses.

(113) Lot, Building. A parcel of land which is of such dimensions as to comply with the minimum requirements of this Title for area, width, and depth applicable to the zone in which it is located, and having frontage on a public or approved private street.

(114) Lot, Corner. A building lot situated within a corner created by the intersecting lines of a street or streets that has frontage on two (2) sides.

(115) Lot, Flag. A lot that does not have the required frontage on a Town of Hideout Road or private road built to the Town of Hideout Standards. Access to the buildable

portion of the lot is through a narrow private access that is contiguous and part of the lot.

(116) Lot, Inside Gore-Shaped. A lot where side lot lines converge towards the rear to a point or the rear lot line width is less than half the required width for the lot in the applicable zone.

(117) Lot, Interior. Any building lot other than a corner lot.

(118) Lot Line, Front. Any street right-of-way line of record or established by use, which forms one or more boundaries of a lot.

(119) Lot Line, Rear, For Corner Lots. The interior lot line which has been designated as the rear lot line determined by the direction the house faces.

(120) Lot Line, Side, For Corner Lot. All interior lot lines for multi-frontage lots; for other corner lots, that interior lot line which the lot owner has designated as the side lot line.

(121) Lot Line, Side, For Interior Lots. Those interior lines lying opposite each other, running between the front and rear lot lines, or in the case of a multi-frontage lot, those interior lines which run between the two front lot lines

(122) Lot, Multi-Frontage. Any building lot, the centerline of which intersects two front lot lines and which has no rear lot line.

(123) Lot, Double Frontage. Any building lot which has both the front and rear yard line bounded by a street. This does not normally include corner lots.

(124) Lot Width, For Corner Lots. The width of the lot as measured along both street frontages at the required setback.

(125) Lot Width, For Interior Lots. The horizontal distance between the side lot lines measured along a line lying at right angles to the centerline of the lot at the point of the required setback.

(126) Manufactured Home. A home or other building of new construction without attached axles or wheels which has been assembled fully, or in part, upon another site, or in a factory, and moved to the site upon which it is to be permanently assembled by truck, timber, dolly or similar conveyance; and which is placed upon a permanent foundation in compliance with the provisions of the Uniform Building Code.

(127) Manufacturing. The assembling, altering, converting, fabricating, finishing, processing, or treatment of a product or good.

(128) Masonry. Stucco, brick, or rock.

(129) Metes and Bounds. The description of a lot or parcel of land by courses and distances.

(130) Mobile Home. A detached dwelling designed for long-term occupancy and to be transported on its own wheels, or on a flatbed or other trailers or detachable wheels, and arriving at the site where it is to be occupied as a complete dwelling unit ready for occupancy except for connections to utilities and other minor work. Removal of such wheels or placing such dwelling unit on a foundation shall not remove such unit from classification as a mobile home.

(131) Motel. A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

(132) Nonconforming Lot of Record. A parcel of land that was legally created prior to the adoption of this Title.

(133) Nuisance Strip. A parcel of property that does not meet the lot requirement for the zone where it is located and was created for the purpose of preventing access and utility extension to the adjacent property.

(134) Off-Site. Pertaining to the territory outside the boundaries of a particular project.

(135) On-Site. Pertaining to the territory within the boundaries of a particular project.

(136) Open Space. Land which is not covered by dwellings or by pavement or other impervious material which has common ownership and is dedicated to be used perpetually by the owners or the public for some other purpose besides development.

(137) Over-Size Facilities. Facilities with added capacity designed to serve other property, in addition to the land within the boundaries of a residential or nonresidential development site.

(138) Parking Lot. An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

(139) Pasture. An enclosure for animals in which no feed is provided except that which the animals obtain by grazing.

(140) Physical Constraints Inventory. An inventory and analysis of environmental factors which may effect the potential of land development along with the identifying of critical and sensitive lands which need to be protected.

(141) Planned Dwelling Group. A method of developing property that allows the concentration of development to an area of the property. This allows for large amounts of open space to remain undeveloped in perpetuity.

(142) Planning Director. For purposes of this Title the term Planning Director shall mean the Director of the Planning and Zoning Department.

(143) Planting Plan. A plan showing the location and dimensions of irrigation equipment and curbs and other protective features around the edge of the planting beds, and the location, dimensions, and species of plants to be planted.

(144) Plot Plan. A plat of a lot, drawn to scale, showing its actual measurements, the size and location of any existing structures and structures to be erected in the future, and showing the location of the lot in relation to abutting streets, and other such information.

(145) Premises Occupation. An occupation conducted on any premises, outside of the main dwelling, by persons residing on those premises and subject to conditional use approval from the Planning Commission.

(146) Pre-School, Home. An educational facility operated on residential premises, which regularly provide an educational program for not more than twelve (12) children (including the operator's natural, adopted, or foster children under six (6) years of age) at any one time.

(147) Radio/Tele-Communications Tower. A structure intended for transmitting or receiving television, radio, or telephone communications that is primarily supported by its own foundation.

(148) Record of Survey Map. A final plat prepared by a professional land surveyor that re-establishes land survey controls, boundaries, location of improvements or the alignment of right-of-ways for recording.

(149) Recreational Vehicle. A trailer, camper, or motor home designed or used for sleeping by persons while traveling, but not intended as a permanent dwelling, and not constructed for permanent attachment to public utilities.

(150) Residential Facility for Elderly Persons. A single family or multiple family dwelling unit that is not a business and offers primary care to a limited number of non-related elderly persons.

(151) Restaurant. Any establishment which provides as a principal use, foods and beverages prepared for consumption within the establishment and whose operation includes both of the following characteristics:

(a) Customers are provided with an individual menu and are served their food or beverage by a restaurant employee at the same table or counter at which said items are consumed; and

(b) The food and beverages are served on non-disposable plates or containers and non-disposable eating utensils are provided. A restaurant employee clears the table of trash.

(c) Notwithstanding the above, a cafeteria where food and beverages are:

(i) generally consumed within the establishment; and

(ii) served on non-disposable plates or containers with non-disposable utensils shall be included in this definition.

(d) A restaurant may provide take-out service, provided such service is clearly not the principal business of the restaurant and the take-out function is totally conducted inside of the building.

(152) Rest Home. A building for the care and keeping of elderly or infirm people affected with infirmities or chronic illness.

(153) Retail Drive-In. Any form of merchandising, serving, or dispensing of goods or services in which the customer is serviced while in his automobile.

(154) Retaining Wall. A wall designed and constructed to resist the lateral displacement and erosion of soils or other materials.

(155) Ridgeline. A ridge location that is visible from a major arterial, secondary or collector road that is seen as a distinct edge against a backdrop of sky or land.

(156) Ridgeline, Secondary. A ridge below the primary ridgeline that may or may not have a backdrop of sky.

(157) Road, Fire Apparatus (secondary). A road built to the Fire Apparatus standards as directed by the international Fire code and the Fire Marshall.

(158) Road, Primary. The main access road into a development.

(159) Road, Private. A road that is on private property and maintained by the property owners and not a public entity.

(160) Road, Public. A road that is dedicated to a public entity and maintained by a public entity.

(161) Satellite Dish. An antenna intended to receive signals from satellites and other sources.

(162) School, Commercial. An establishment for the teaching of industrial, clerical, managerial, or artistic skills. This definition applies to schools that are owned and operated privately and do not offer a complete educational curriculum.

(163) School, College, University Private or Quasi-Public. A school operated by a private or quasi-public organization, or individual, which has a program similar to that provided in any public school in the State of Utah, except that such curriculum may include religious instruction. A private school may be a for-profit or nonprofit organization. This definition shall not include commercial schools.

(164) School, Public. An educational facility operated by the Town of Hideout School District or other public agency of the State of Utah.

(165) Secondary Residential Unit. A living unit subordinate and accessory to the main structure with living space found within the main dwelling unit for family of the occupants of the main structure only.

(166) Septic Tank. A watertight receptacle that receives the discharge of sewage and is designed and constructed to permit the deposition of settled solids, the digestion of the matter deposited, and the discharge of the liquid portion into a leaching system.

(167) Septic Tank Drainfield. A specified tract or parcel of land in which the sewage that flows from a septic tank is oxidized.

(168) Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

(169) Service Station. A building or premises used for the sale of gasoline and oil products including the servicing of motor vehicles and the retail sale and installation of tires, replacement parts and accessories in and upon such vehicles; but not including



paint, body and frame repair, or rebuilding of engines, transmissions, or differentials. Such premises may also include the sale of food products.

(170) Sign. Any device for visual communication that is used for the purpose of advertising a product thereof to the attention of the public, but not including a flag pole which is used for the display of the state or national flag.

(171) Slope. The ratio of the vertical distance moved to the horizontal distance moved, expressed in percentage or degrees, when traversing along the surface of land.

(172) Soil Engineer. A civil engineer registered in the State of Utah with training and experience in soil engineering.

(173) Solid Waste. Any discarded material that does not flow under stress.

(174) Stable. A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire, or sale.

(175) Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor or next ceiling above.

(176) Street, Stub. A street having only one outlet for vehicular traffic and which is intended to be extended or continued to serve future subdivisions or developments on adjacent lands.

(177) Street, Through. Streets that extend continuously between other major streets in the community.

(178) Structure. That which is framed, erected, constructed or placed upon the ground; but not including fences that are six (6) feet or less in height.

(179) Subdivision. The term “subdivision” shall have the meaning set forth in the Land Use Management Act in the Utah Code.

(180) Surface Drainage. That amount of water run-off caused as a result of precipitation or irrigation.

(181) Swimming Pool. A portable or permanent structure above or below grade, designed to hold water eighteen (18) inches deep or greater and/or two-hundred fifty (250) square feet or greater surface area and intended for therapeutic or recreational purposes. This definition does not include an ornamental reflecting pool, fish pond or other type of pool not used for swimming and/or wading and must be located and designed so as not to create a hazard.

(182) Vacation Vehicle Court. An area or tract of land used to accommodate two or more vacation vehicles or camper units for a period of less than thirty (30) days.

(183) Variance. A variation of, or deviation from the regulations or standards adopted by Ordinance, which the Board of Adjustment is permitted to grant.

(184) Vocational School. A school that specifically trains people for a skill or trade to be pursued as a trade.

(185) Yard. A space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided in this Title.

(186) Yard, Front. Any yard between the front lot line and the setback line of a main building and extending for the full width of the lot.

(187) Yard, Rear. A yard between the rear lot line and the setback line of a main building, extending across the full width of inside lots and for corner lots a yard between the rear lot line and the setback line of the building and extending between the side lot line and the front yard lying opposite

(188) Yard, Side. Any yard between the side lot line and the setback line of a main building, extending from the front yard to the rear yard.

(189) Yard, Street Side. On corner lots, the yard determined by the owner to be the side yard on the street and running from the front setback line to the rear property line.

(190) Youth Group Home. A dwelling unit wherein room, board, ordinary care, and supervision are provided in a family environment by the resident family or group home

parents to persons who are unrelated to the resident family or group home parents and who are under the age of eighteen (18) years. To qualify, the dwelling unit must be approved by an agency of Utah State Government.

(191) Zero Lot Line Development. Single family dwellings arranged on lots with one common wall of the building located on the property line.

## **CHAPTER 3**

### **ADMINISTRATION AND ENFORCEMENT**

#### **Section**

11.03.101	ADMINISTRATIVE PROCEDURES
11.03.102	NOTICE OF PUBLIC HEARINGS
11.03.103	PLAT AMENDMENTS
11.03.104	BOUNDARY LINE ADJUSTMENTS
11.03.105	PROPOSED USES SUBSTANTIALLY SIMILAR TO PERMITTED USES BUT NOT PERMITTED IN THE ZONING DISTRICT
11.03.106	ADOPTION OF LOCAL STREET PLAN
11.03.107:	ENFORCEMENT
11.03.108:	INSPECTION
11.03.109:	ENFORCEMENT ACTION
11.03.110:	PENALTIES

#### **11.03.101: ADMINISTRATIVE PROCEDURES:**

The purpose of this chapter is to establish the administrative procedures for land use policy decisions in the Town of Hideout.

#### **11.03.102: NOTICE OF PUBLIC HEARINGS:**

1. The Town of Hideout shall give reasonable notice of any public hearing mandated by this Title, which notice shall be given in a manner consistent with the requirements of state law.
2. If notice given under authority of this section is not challenged as provided by State Law within thirty (30) days from the date of the meeting for which notice was given, the notice is considered adequate and proper.

#### **11.03.103: PLAT AMENDMENTS:**

Plat amendments that do not qualify for treatment as a Boundary Line Adjustment, shall be processed in accordance with the requirements of Utah State Statute. An application including a copy of the proposed amended plat shall be submitted to the Town of Hideout Offices.

#### **11.03.104: BOUNDARY LINE ADJUSTMENTS:**

1. Application. An application must be completed and the application fees paid. A complete application may be required to include a draft copy of the proposed plat as adjusted by the proposed boundary line adjustment. A determination of whether a new plat will be required will be made by the Hideout Legislative Body, depending upon the adjustments to be made to the property.
2. Processing. The Planning Staff shall review the application in accordance with Utah State Statute. If complete, the Boundary Line Adjustment may be processed.

### **11.03.105: PROPOSED USES SUBSTANTIALLY SIMILAR TO PERMITTED USES BUT NOT PERMITTED IN THE ZONING DISTRICT:**

Any use proposed in a zoning district that does not specifically permit such use may be considered by the Hideout Legislative Body after a determination that the proposed use is substantially similar in type and impact to a permitted use in the Land Use district. The Hideout Legislative Body shall process and consider such proposed uses in the same manner as any amendment to the zoning Ordinance, except that such proposed uses may be considered at any time during the calendar year.

### **11.03.106: ADOPTION OF LOCAL STREET PLAN:**

The Hideout Legislative Body may adopt and maintain a local street plan, which will provide long-range planning for local neighborhood streets. This process is intended to ensure that property within a given area can be adequately developed and serviced. Elements of this plan shall show the proposed streets layout, lots, and other features including existing utilities and water courses in relation to the existing and planned street within the development. The plan shall be prepared at a scale of not smaller than one inch equals four hundred feet. Upon recommendation by the Planning Commission, local street plan shall be submitted to the Hideout Legislative Body for adoption. The land developer shall coordinate with the Planning Department in developing the local street plan.

### **11.03.107: ENFORCEMENT:**

A. The "ordinance enforcement officer" is hereby designated and authorized as the officer charged with the enforcement of this title. He/she shall enforce all the provisions of this title, entering actions in the court when necessary, and his/her failure to do so shall not legalize any violation of such provisions.

B. The Town Council may, by resolution or ordinance, from time to time, entrust the enforcement and administration of this title, in whole or in part, to any officer of the town, without amendment to this title.

### **11.03.108: INSPECTION:**

A. The Town planner or building official is hereby authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification, or repair, and to inspect land uses to determine compliance with the provisions of this title; provided, however, that no such inspection shall be required as a condition precedent to commencement or continuation of any construction, modification or repair of any building or structure.

B. The Town planner or any employee of the Town who is authorized to represent the Town shall have the right to enter any building for the purpose of determining the use thereof or to enter the premises for the purpose of determining compliance with the provisions of this title; provided, that such right of entry shall be exercised only at a reasonable hour and that in no case shall entry be made to any occupied building or premises in the absence of the owners or tenants thereof without the written order of a court of competent jurisdiction.

### **11.03.109: ENFORCEMENT ACTION:**

The provisions of this Title shall be administered by the Planning and Zoning Department under the supervision of the Hideout Legislative Body. The Director or his/her representative shall investigate alleged violations of this Title, and initiate enforcement actions if violations are found to exist. The failure of the Town of Hideout to enforce the requirements of this Title shall not operate to waive or stop the Town of Hideout from pursuing subsequent enforcement actions. Permits issued in violation of this Title shall have no force or effect.

### **11.03.110: PENALTIES:**

It shall be unlawful for any person to violate any of the provisions of this Title. Any person, firm, partnership, corporation, or other entity, whether as principal, agent, employee or otherwise, violating or causing the violation of the provisions of this Title shall be guilty of a Class "C" Misdemeanor, and upon conviction thereof may be punished by a fine of not more than seven hundred and fifty (\$750.00) dollars per offense, or by imprisonment in jail for a period not more than ninety (90) days or by a combination of said fine and imprisonment.

## **CHAPTER 4 AMENDMENTS**

### **Section**

11.04.101: POWER OF PLANNING COMMISSION AND TOWN COUNCIL

11.04.102: PETITION FOR CHANGE

11.04.103: PLANNING COMMISSION REVIEW

11.04.104: PUBLIC HEARINGS; TOWN COUNCIL ACTION

### **11.04.101: POWER OF PLANNING COMMISSION AND TOWN COUNCIL:**

The planning commission or town council may initiate proposals for change or modification of any section of this title as necessity may arise.

### **11.04.102: PETITION FOR CHANGE:**

Any person desiring to initiate a change in this title or the zoning map shall submit a petition to the town planning commission chair explaining the request and the reasons therefor. The petition shall be accompanied by an amendment petition fee in an amount determined by the town fee schedule.

### **11.04.103: PLANNING COMMISSION REVIEW:**

A. Required; Time Limit: The planning commission shall review the petition and certify its recommendations to the town council.

B. Conditions For Recommending Adoption: The planning commission shall recommend adoption of proposed amendments only where it finds the proposed amendment furthers

the purpose of the general plan, or that changed conditions make the proposed amendment necessary to fulfill the purposes of this title.

C. Public Hearing: Prior to making recommendations to the town council regarding amendments to the general plan, the planning commission shall hold a public hearing and shall give notice of said hearing. Notice of hearing shall be published in at least one newspaper of general circulation in the town at least ten (10) days prior to such hearing.

#### **11.04.104: PUBLIC HEARINGS; TOWN COUNCIL ACTION:**

A. Public Hearing Required: A public hearing shall be held by the town council before any amendment or change shall be passed.

B. Procedure: Notice of such hearing shall be published in at least one newspaper of general circulation in the town at least ten (10) days prior to such hearing; and

C. Submission To Planning Commission Required: All proposed amendments shall be first submitted to the planning commission for its recommendation as provided in this chapter.

D. Decision Of Town Council: After the required hearing on the proposed amendment, the town council may adopt, modify or reject such amendment.

E. Resubmission: Resubmission of an application for the same amendment shall not be allowed for a period of twelve (12) months. Any such resubmission shall follow the same procedures as the original submission.



## **CHAPTER 5**

### **BOARD OF ADJUSTMENT**

#### Section

- 11.05.101: APPOINTMENT, TERM, VACANCY
- 11.05.102: ORGANIZATION; PROCEDURES:
- 11.05.103: POWERS AND DUTIES
- 11.05.104: APPEALS
- 11.05.105: ROUTINE AND UNCONTESTED MATTERS
- 11.05.107: VARIANCES
- 11.05.108: DISTRICT COURT REVIEW OF BOARD DECISION

#### **11.05.101: APPOINTMENT, TERM, VACANCY:**

A. Board Created: In order to provide for just and fair treatment in the administration of this title, and to ensure that substantial justice is done, the town shall appoint a board of adjustment to exercise the powers and duties provided in this chapter. Unless otherwise designated in this Title, the Board of Adjustment shall be the Land Use Appeal Authority.

#### B. Membership; Appointment:

1. The board of adjustment shall consist of three (3) members and whatever alternate members that the chief executive officer considers appropriate.
2. The chief executive officer shall appoint the members and alternate members with the advice and consent of the legislative body for a term of three (3) years.
3. The chief executive officer shall appoint members of the board of adjustment to terms so that the term of one member expires each year.
4. No member of the board shall be allowed to serve for more than two (2) consecutive terms.

#### C. Alternate Members:

1. No more than two (2) alternate members may sit at any meeting of the board of adjustment at one time.

2. The town council shall make rules establishing a procedure for alternate members to serve in the absence of members of the board of adjustment.

D. Removal:

The chief executive officer may remove any member of the board of adjustment with or without cause.

E. Vacancies:

1. The chief executive officer, with the advice and consent of the town council, shall fill any vacancy.
2. The person appointed shall serve for the unexpired term of the member or alternate member whose office is vacant.

## **11.05.102: ORGANIZATION; PROCEDURES:**

A. Elect Chairperson; Adopt Rules: The board of adjustment shall:

1. Organize and elect a chairperson; and
2. Adopt rules that comply with any ordinance adopted by the town council.

B. Meetings: The board of adjustment shall meet at the call of the chairperson and at any other times that the board of adjustment determines.

C. Administer Oaths; Compel Attendance: The chairperson, or in the absence of the chairperson, the acting chairperson, may administer oaths and compel the attendance of witnesses.

D. Open Meetings; Records, Minutes:

1. All meetings of the board of adjustment shall comply with the requirements of Utah Code Annotated title 52, chapter 4, open and public meetings.
2. The board of adjustment shall:
  - a. Keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact; and

- b. Keep records of its examinations and other official actions.
- 3. The board of adjustment may, but is not required to, have its proceedings contemporaneously transcribed by a court reporter or a tape recorder.
- 4. The board of adjustment shall file its records in the office of the board of adjustment.
- 5. All records in the office of the board of adjustment are public records.

E. Voting: The concurring vote of two (2) members of the board of adjustment is necessary to reverse or modify any order, requirement, decision or determination of any administrative official or agency, or to decide in favor of the appellant.

F. Decisions, When Effective: Decisions of the board of adjustment become effective at the meeting in which the decision is made, unless a different time is designated in the board's rules or at the time the decision is made.

### **11.05.103: POWERS AND DUTIES:**

A. Generally: The board of adjustment shall hear and decide:

- 1. Appeals from zoning decisions applying the zoning ordinance;
- 2. Variances from the terms of the zoning ordinance.

B. Nonconforming Uses: The board of adjustment may make determinations regarding the existence, expansion or modification of nonconforming uses as delegated to them by the town council.

### **11.05.104: APPEALS:**

Appeals to the Board of Adjustment shall be made as follows:

A. Standing to Appeal. Any person or entity (including a town department or elected official) affected by an administrative decision applying the Land Use Ordinance may appeal that decision to the Board of Adjustment by alleging that there is an error in any order, requirement, decision, or determination by an official.

B. Deadline for Filing Notice of Appeal. Notice of Appeal and all supporting documents shall be filed within thirty (30) days of decision or action taken by the official. Notice of Appeal shall be filed with the Planning Department.

C. Contents. Notice of Appeals shall state the administrative order, requirement, decision or determination from which the person or entity appeals, and shall specify the grounds for the appeal and circumstances related thereto. Any filings shall include copies of any documentary evidence or written arguments intended to be presented to the Board of Adjustment. A written appeal failing to specify grounds of appeal may be summarily dismissed by the Board of Adjustment, with or without prejudice. The brief should address all issues to be brought before the Board of Adjustment. Any new issues not addressed in the brief that are put forth at the hearing, shall be grounds to continue the matter to allow for adequate time to respond to the new issues.

D. Determination of Hearing Date. Within five (5) business days of receipt of a Notice of Appeal, the applicant will be informed of a date for the hearing before the Board of Adjustment, which shall be no sooner than thirty (30) days thereafter, and no later than seventy five (75) days thereafter.

E. Record Sent to Board of Adjustment. The official responsible for the administrative decision being appealed shall refer to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken, at least seven (7) days prior to the hearing.

F Appeal Stays Action. An appeal stays all proceedings unless the Planning Department certifies to the Board of Adjustment that a stay would cause imminent peril to life or property, or irreparable harm.

G. Burden of Proof. The person or entity making the appeal has the burden of proving that an error has been made.

H. Actions of Board of Adjustment. In exercising its powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, condition, decision or determination as ought to be made. The majority vote of the members of the Board shall be necessary to reverse any order, requirement, decision or determination applying the Land Use Ordinance.

I. Appeal of Decision of Board of Adjustment. Any person or entity aggrieved by a decision of the Board of Adjustment may petition the district court for a review of the decision as permitted by Utah State Law.

### **11.05.105: ROUTINE AND UNCONTESTED MATTERS:**

A. The planning staff is hereby authorized to decide certain matters, as designated by the board of adjustment, that are consistent with the guidelines established by this title and state law and the rules adopted by the board of adjustment. Pursuant to that authority, the zoning administrator may decide all cases which are routine in nature, uncontested, that do not impact the character of the neighborhood, are primarily brought about by recent changes in the zoning ordinance or town initiated development or construction that has resulted in the creation of nonconforming structures or uses. The specific types of decisions the zoning administrator is authorized to make shall include:

1. The determination of a nonconforming use which can be verified by substantial evidence. "Substantial evidence", for the purpose of this section, shall mean official documents, including any written correspondence, receipts, permits or documents issued by a public body or agency thereof, etc., that may establish the truth of the matter asserted by the applicant;
2. Consider additions or alterations to existing buildings and structures, which are nonconforming as to height, area or yard regulations; providing, that the addition follows the existing wall lines and no additional dwelling units are added to the building or structure;
3. Change in the status of a nonconforming use to a less intense use than that immediately preceding the proposed use;
4. Final review and approval on plans where the board has required that a final plan be submitted for special approval, showing that all requirements imposed by the board in granting the original approval have been complied with; and
5. The granting of a variance in the very limited instance wherein the applicant and the town are in complete agreement regarding all issues, and that the spirit and intent of the this title is satisfied and that all criteria required statutorily for a variance has also been satisfied.

B. Notice Requirements: The notice requirements established by this title, that are required before a hearing on a variance, must still be satisfied by the zoning

administrator. However, in lieu of giving notice of a time, date and place of a hearing, the zoning administrator's notice shall provide for a time frame within which all interested parties may submit their input to the zoning administrator. All responses received pursuant to the notice shall become a permanent part of the file.

Appeal: A decision of the planning staff may be appealed to the board as provided for in this chapter.

### **11.05.107: VARIANCES:**

A. Authorized: Any person or entity desiring a waiver or modification of the requirements of this title as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the board of adjustment for a variance from the terms of this title.

B. Applications. Applications for variance shall be filed with the Town of Hideout Offices. Applications shall contain the following information:

1. A description of the requested variance together with a designation of that section of the Hideout Planning, Land Use and Development Code from which relief is being requested;
2. An accurate plot plan, if appropriate, indicating the manner in which the variance will be applied and its effect upon adjacent properties; and
3. A filing fee as established by ordinance.

C. Public Hearing. Upon receipt of a complete application as determined by the Planning Department, a public hearing shall be set with the Board of Adjustment for the next available meeting date.

D. Burden of Proof. The applicant for a variance shall bear the burden of proving that all of the foregoing conditions are satisfied as determined by the planning department.

E. Findings Required. The Board of Adjustment may authorize variances from the requirements of this Title, only when those variances serve the public interest, and are consistent with State law. In addition the Board of Adjustment may not grant use variances. The majority vote of the members of the Board of Adjustment shall be necessary to grant a variance.

F. Requirements for Granting a Variance. The Board of Adjustment may grant a variance only if all of the following conditions are met:

1. Literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Ordinance;
2. There are special circumstances attached to the property that do not generally apply to other properties in the same districts;
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
5. The spirit of the Land Use Ordinance is observed and substantial justice done.

G. Unreasonable Hardship. In determining whether or not enforcement of the Land Use Ordinance would cause unreasonable hardship under Subsection Five (5)(a), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:

1. Is located on or associated with the property for which the variance is sought; and
2. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(i) In determining whether or not enforcement of the Land Use Ordinance would cause unreasonable hardship under Subsection Five (5)(a), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed. .

(ii) In determining whether or not there are special circumstances attached to the property under Subsection Five (5)(a), the Board of Adjustment may find that special circumstances exist only if the special circumstances:

(A) Relate to the hardship complained of; and

(B) Deprive the property of privileges granted to other properties in the same district.

H. Meeting Conditions. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

I. Variance Applicability. Variances run with the land.

J. Use Variance. The Board of Adjustment and any other body may not grant use variances.

K. Additional Requirements. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:

1. Mitigate any harmful affects of the variance; or
2. Serve the purpose of the standard or requirement that is waived or modified.

#### **11.05.108: DISTRICT COURT REVIEW OF BOARD DECISION:**

Any person adversely affected by any decision of a board of adjustment may petition the district court for a review of the decision as provided by state law.



## **CHAPTER 6**

### **DEVELOPMENT STANDARDS, APPLICABILITY AND REGULATIONS**

#### **Section**

11.06.101:	PURPOSE
11.06.102:	LANDS TO WHICH HIDEOUT DEVELOPMENT STANDARDS APPLY
11.06.103:	PHYSICAL CONSTRAINTS RESTRICTIONS
11.06.104:	ERU CALCULATIONS
11.06.105:	TRANSPORTATION
11.06.106:	PUBLIC SERVICES
11.06.107:	OPEN SPACE
11.06.108:	BUILDING ELEMENTS
11.06.109:	REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL BUILDINGS:
11.06.110:	SETBACKS
11.06.111:	MINIMUM LOT FRONTAGE
11.06.112:	WEED CONTROL
11.06.113:	IMPACT FEES
11.06.114:	DENSITY INCREASES
11.06.115:	FIRE SPRINKLERS REQUIRED
11.06.116:	SALE OF PROPERTY UNDER CONDOMINIUM OWNERSHIP ACT
11.06.117:	DEVELOPMENT APPLICATION PROCESS

#### **11.06.101: PURPOSE:**

The establishment of the Hideout Development Standards (“HDS”) is to achieve development that can work in unison with the surroundings to maximize the beauty, enjoyment and long term stability and accomplish the following purposes:

1. To preserve and protect the natural beauty of the Hideout; and
2. To establish regulations by which development may take place.

#### **11.06.102: LANDS TO WHICH THE HDS APPLIES:**

The HDS shall apply to all lands within the the Town of Hideout.

#### **11.06.103: PHYSICAL CONSTRAINTS RESTRICTIONS:**

No land shall be developed that does not conform to the physical constraints standards established by recommendations of a geological engineer or a geotechnical engineer licensed in the State of Utah for the particular development, subject to approval by the legislative body

#### **11.06.104: ERU CALCULATIONS:**

ERU calculations shall be based upon the Unit Equivalent Chart attached as Appendix 6 hereto.

#### **11.06.105: TRANSPORTATION:**

1. Roads. Planned roads within a development should connect when practical to roads planned in the adjoining development, and be kept open to the public at all times, unless special approval is granted by the Hideout Legislative Body to allow a gated community.
2. Retaining Walls. No retaining wall shall exceed ten (13) feet in height without a step or horizontal break of at least three (3) feet. However, on a limited basis, walls without the three (3) foot break may be approved, if the developer can show that the appearance of the retaining wall, without the required three (3) foot steps can be mitigated or that physical constraints limit the ability to provide the required step. Timber retaining walls are discouraged. Retaining wall material shall be colored to blend with the environment.

#### **11.06.106: PUBLIC SERVICES:**

1. Sewer. All lots shall be served with public sewer, except that if the property line is more than three hundred (300) feet from a sewer line, and an owner wishes to build one (1) residence on a parcel of land of at least ten (10) acres, a septic system for the single residence may be permitted if approved by the health department and Hideout Legislative Body.
2. Water. All lots shall be served with a public water source, if such is available within five hundred (500) feet of any portion of the lot, and the lot is a minimum of ten (10) acres in size. In the event a private well is allowed by the Hideout Legislative Body it must meet all Town and State requirements.
3. Storm Water Management. All developments and lots contained therein shall control the release of storm water run-off by complying with the regulations established in the Hideout Water Quality Management Plan, which is attached hereto as Appendix 2.
4. Utilities. All developments shall supply stub-outs to each lot contained in the development for all utilities including, but not limited to natural gas, telephone, electricity, cable television, etc. In the event, wireless solution for phone, internet and television are used, an implementation plan will be provided for approval.
5. Snow Removal and Road Maintenance. Snow removal and road maintenance will be the responsibility of the Homeowner' s Association within each development for roads contained therein, except for any roads, or portions thereof, which are specifically accepted and dedicated as public roads, at the time of approval of the development, by the Town of Hideout. All roads accepted and dedicated as public roads by the Town of Hideout shall be maintained and snow removed by the Town of Hideout. All developments will be planned with snow removal requirements in mind.
6. Garbage. Construction debris shall be properly disposed of by the contractor prior to a Certificate of Occupancy being granted for any building.

#### **11.06.107: OPEN SPACE:**

A minimum of twenty (20) percent open space is required within each development. The intent of the open space is that some open space shall be available for gathering spaces, parks, golf courses, playgrounds and other areas that is easily accessible to people who may not be able to access steeper areas.

1. Sensitive Areas. All areas which have been designated as a sensitive area shall remain as open space, but may be counted toward the open space requirement for the development. If any development has a larger amount of sensitive area than is required for their development, density allowances for the extra land required to be left in open space may be transferred to other areas if requested and if such transfer will not result in an overcrowding of the area to which it is being transferred.
2. Contiguous. Open spaces shall be designed to be as contiguous as possible.
3. Usable. Wherever possible lands designated as open spaces should be usable for hiking and biking trails and small parks.
4. Maintenance. Provisions must be made for regular maintenance of all open spaces. In the case of open space that is left in its native conditions a management plan may be required.

#### **11.06.108: BUILDING ELEMENTS:**

All buildings shall be designed to meet the requirements of the Hideout Development Area Design Guidelines. Evidence of conformance to the Design Guidelines shall be in the form of typical drawings and in through the Developer CC&R's and Design Review Guidelines that bind future buildings in the development to at least the minimum standards that are established by the Hideout Development Area Design Guidelines and as approved by the Hideout Legislative Body.

#### **11.06.109: REQUIREMENTS FOR COMMERCIAL/INDUSTRIAL BUILDINGS:**

1. Parking and Pedestrian Access.
  - a. Pedestrian access to all public right-of ways and between all structures within the development.
    - i. Access through parking areas shall be separated from vehicular traffic. Pedestrian access should be defined.
    - ii. Crossings through parking areas should be minimized.
    - iii. Lighting analysis and plan be provided. Lighting plan should comply with dark sky initiative.
    - iv. If developments have more than one parcel, an overall pedestrian plan shall be submitted and approved as part of the preliminary approval.
2. Traffic Impact Study. A traffic impact study may be required by the Town of Hideout, and must be prepared by a registered traffic engineer. The traffic study shall include an analysis of on-site circulation, capacities of existing streets, number of additional trips, which will be generated, origin/destination studies and peak home traffic generation and movements.

3. Landscaping. For the purpose of buffering and site compatibility with surrounding development, commercial and industrial projects may require additional landscaping and architectural integration. Landscaping areas and buffer strips may be increased to ensure compatibility. Site compatibility is particularly important when commercial or industrial Projects are developed adjacent to residential and professional office buildings.
4. Fencing/Screening. Fencing may be allowed depending on the adjacent land use and the applicant's security needs. Screening of any outside storage shall be required, if appropriate, with a combination of fencing, walls, live plants and/or earth berming.
5. Fences shall be constructed so that significant variations in top line, bottom line and/or height do not occur due to erratic grading of the site.

#### **11.06.110: SETBACKS:**

All setback lines shall be reviewed for recommendation by the Planning Commission and subject to final approval by the Legislative based upon a visual assessment of the property and the use for which it is intended. Building setbacks shall vary from structure to structure within any one (1) lot or development. Setbacks shall also vary from those on adjoining roadway-oriented property to avoid creating a walled effect. Buildings shall be located in such a manner as to enhance and frame views as determined in the visual assessment, to allow for appropriate gathering and seating areas in commercial nodes, and to maximize the usable space on the lot.

#### **11.06.111: MINIMUM LOT FRONTAGE:**

Each lot or parcel of land in a residential development shall abut a public road or road built to town standards, for a minimum distance of seventy (70) feet on a line parallel to the centerline of the road or around the circumference of a cul-de-sac.

#### **11.06.112: WEED CONTROL:**

The developer shall be responsible for the control and eradication of noxious weeds on all areas of the property including graded and disturbed areas until such time that the individual lot is sold, at which time the individual lot owners shall become responsible.

#### **11.06.113: IMPACT FEES:**

Each development and each individual lot contained within each development shall be subject to all Town of Hideout Impact Fees for the Town of Hideout, as adopted and amended from time-to-time.

#### **11.06.114: DENSITY INCREASES:**

The Hideout Legislative Body, after public hearings, may award reasonable increases in density where appropriate and not barred by sensitive lands, as a means of compensating owners for dedication or contribution of approved schools sites, public facilities or increased open space above the required amount. Such density increases may not exceed twenty five (25) percent of

the lowest base density that would have been granted for the land use. The twenty five (25) percent maximum shall be calculated based upon the lowest base density, and only one (1) bonus may be granted for any qualifying category. Developer can request bonus density of one (1) unit for every 500 feet of paved (minimum 5' width) public trails, and will therefore reduce open space requirement proportionately.

#### **11.06.115: FIRE SPRINKLERS REQUIRED:**

All building constructed or modified within Hideout shall be required to install fire sprinklers. Fire sprinklers shall be installed in accordance with applicable building codes.

#### **11.06.116: SALE OF PROPERTY UNDER CONDOMINIUM OWNERSHIP ACT:**

Where all or part of a development is structured as a condominium project, the documentation for the project shall comply with the provisions of the Utah Condominium Ownership Act, as well as with the provisions of the Town of Hideout Code. To the extent there is a conflict between the provisions of this Title and the Act, the provisions of the Act shall control. All condominium projects must be submitted to the Planning Commission and approved by the Hideout Legislative Body. No declaration, bylaw, or other instrument required by or under the act, shall be recorded in the office of the Town Recorder unless and until the declaration, by law, or other instrument shall have been submitted to and approved by the Hideout Legislative Body.

#### **11.06.117: DEVELOPMENT APPLICATION PROCESS:**

##### **1. Concept Plan.**

A Concept Plan shall be prepared for all proposed developments. The Concept Plan shall conform to the goals of the Plan and the Town of Hideout Code relating to the zone governing the application. As used in this process the term "Concept Plan" refers to a preliminarily engineered sketch plan drawn to illustrate initial thoughts about the layout for open space lands, development sites, public trails, and street alignments, etc. This plan should be prepared using spatial data. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed development, but after consideration of spatial data. These drawings shall be prepared by a team that is headed up by a licensed professional engineer or licensed architect. After preparation, an appointment should be made with the Town office to have the plan reviewed. The concept plan should use the criteria established in:

- a. Appendix 1 - Road Design Planning Submittal Criteria and
- b. Appendix 2 - Storm Drainage and Erosion Control Planning Submittal Requirements
- c. Appendix 3 - Sewer and Water Design Criteria
- d. Appendix 4 – Modification to WPA
- e. Appendix 5 – Adoption of Codes
- f. Appendix 6 ERU/Equivalent Residential Units
- g. Manual of Standard Plans 2007 editions APWA

## 2. Preliminary Plans.

The Preliminary Application Package shall contain a submittal of the application in a form which complies with the Town of Hideout Policy. The Preliminary Plans shall be drawn to a scale not smaller than one inch equals one hundred feet (1" = 100'), and shall show the following:

- a. Project name and address;
- b. North point, scale, date;
- c. A copy of the Record of Survey filed with the Town of Hideout Surveyor's office of the proposed boundary of the overall development and/or phase. In the event that the development has multiple phases, the proposed plat shall show the recorded file number of the Record of Survey and/or paper copy of the survey;
- d. A copy of the closure sheet which shall show the following:
  - i. The courses and distance of the proposed development/subdivision boundary and the error of closure;
  - ii. The area of each lot in square feet and acres.
- e. All open spaces and roadways
- f. Names, addresses, and telephone numbers of developer, engineer, and current and prospective owners;
- g. Nearest section corner tie, township(s) and range(s);
- h. Acreage, property dimensions, project perimeter;
- i. All proposed phases of the development, numbered and defined, with approximate timetable for development;
- j. Location of entire development in relation to surrounding neighborhoods and developments (include names of adjacent subdivisions and developments, adjacent property owners' names and addresses, and adjacent land uses and buildings);
- k. Existing topography with a contour interval of two (2) feet;
- l. Landscaping Concept plans illustrating cut and fill limits and limits of disturbance and landscaping plans including topographic lines, and evidencing conformance with the Hideout Water Quality Plan;
- m. Existing and proposed lot lines, easements, walkways, streets and rights-of-way (public and private), including widths, names, and numbers, on subject and surrounding areas; proposed dedications of public use areas; existing and proposed curb, gutter, and sidewalk. Sidewalks may not be required in all residential areas, but should be noted on the plans if proposed by the developer or if required by the Town of Hideout after initial review.
- n. Existing waterways (including irrigation), significant vegetation, and natural features of the land;
- o. Sensitive lands in the proposed development shall be identified on a plan prepared and stamped by a licensed geotechnical engineer or licensed geologist;
- p. Soils testing and geotechnical analysis as required by the Town of Hideout;
- q. Existing and proposed infrastructure including all fire hydrants, water and sewer lines, storm sewer system, and all utilities, including but not limited to electricity, natural gas, telephone, cable television;

- r. Proposed layout of all public and private streets, if any, including profiles (same scale as site plan) and cross-sections (same as Town standards, at an interval of one hundred (100) feet (or as determined by the Hideout Planner);
  - s. Location and conceptual elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
  - t. Drainage plans illustrating that the development as planned does not impose adverse impacts to the drainage system or increase the sediment contribution to receiving waters. The Drainage Plan will illustrate methods of controlling runoff, directing flow and detaining or retaining water. Methods in preparing the necessary items to be contained in the Drainage Plan are described in the Hideout Water Quality Plan. The Drainage Plan shall include the following:
    - iii. Site Description;
    - iv. Development Plan;
    - v. Drainage Assessment; and
    - vi. Storm Water Pollution Prevention Plan.
  - u. Unit configuration footprints and typical architectural elevations;
  - v. Tabulation of projected ERUs, as described in the Plan;
  - w. Any additional information which the Hideout Legislative Body may reasonably require in a specific instance. Where a developer owns or controls more land than he or she wishes to develop immediately, the Town of Hideout may require that a preliminary plan of the whole area be submitted, in which case the developer shall indicate the portion to be developed immediately and the portion to be held for future development.
  - x. Preliminary Plan shall incorporate the criteria and requirements of the following:
    - vii. Appendix 1 - Road Design Planning Submittal Criteria and
    - viii. Appendix 2 - Storm Drainage and Erosion Control Planning Submittal Requirements
    - ix. Appendix 3 - Sewer and Water Design Criteria
    - x. Appendix 4 - Modification to WPA
    - xi. Appendix 5 - Adoption of Codes
    - xii. Appendix 6 - ERU/Equivalent Residential Units
    - xiii. Manual of Standard Plans 2007 editions APWA
    - xiv. Manual of Standard Specifications 2007 editions APWA
3. The following documents which shall be prepared in accordance with applicable standards, and shall be submitted in accordance with the requirements of this Code, or any amendment thereto, with the required application fees. These documents shall be a draft copy of each document, which shall be reviewed and the final copies will be submitted with the final documentation when application is made for Final Approval.
- a. Draft copy of Articles of Incorporation and Bylaws of the Property Owners Association;
  - b. Draft copy of Declaration of covenants, conditions, restrictions and management policies;
  - c. A will-serve letter from any Special Service District and/or other appropriate agency, indicating the availability of water, water service, sewer service, extended fire, extended police, schools, garbage collection and disposal, roads maintenance,

trails maintenance, open space management, storm water detention, telephone service, electric service, natural gas, and other municipal type services;

- d. A form of certification for each of the following (these are proposed certifications of what is intended to be placed on the plat, a sample of which may be obtained from the Planning office):
  - i. Owner's dedications;
  - ii. Surveyor's certificate of accuracy of survey;
  - iii. Surveyor's approval;
  - iv. Hideout Legislative Body approval.

#### 4. Preliminary Procedures

- a. Submit application along with required fees and 5 copies of all required plans, reports and required documents.
- b. Public Notice as required by the Town of Hideout Standards.
- c. Hearing before the Planning Commission: The Public hearing before the Planning Commission will be held, and comments requested from the public at that time. If, after such hearing and at such time that the Planning Commission determines that a complete application has been provided it will forward the application along with it's recommendations to the Hideout Legislative Body.
- d. The matter will be placed on the next available Hideout Legislative Body agenda.
- e. Public Notice of the Hideout Legislative Body hearing shall be given as required by the Hideout Standards for Public Notice.
- f. Hearing before the Hideout Legislative Body: The hearing before the Hideout Legislative Body will be held, and comments requested from the public at that time. If, after such hearing the Hideout Legislative Body approves the project, the project may then proceed to apply for Final Approval, provided however if any conditions are set forth by the Hideout Legislative Body, all such conditions must be met prior to application for Final Approval unless otherwise required by the Hideout Legislative Body.

#### 5. Final Plans. The Final Plans must first evidence how the Final Plans conform to the Preliminary Plans and any conditions for Preliminary Approval and such plans must include but not limited to the following:

- a. Submit application along with required fees and 5 copies of all required plans, reports and required documents;
- b. Project name and address;
- c. North point, scale (not smaller than 1" = 100'), date;
- d. Development phase number, if a phased project;
- e. Names, addresses, and telephone numbers of developer, engineer, and current owners;
- f. Nearest section corner tie, township(s), and range(s);
- g. Lot lines, dimensions and area; adjacent lots and phases;
- h. Existing and proposed easements, walkways, streets, and rights-of-way (public and private), and trails, including widths, names, and numbers; proposed dedications of public use areas; existing and proposed curb, gutter and sidewalk (public and private);



- i. Existing waterways (including irrigation and piping);
  - j. Topography (contours at 2-foot intervals) and site drainage plan which illustrate existing and proposed conditions;
  - k. Existing vegetation to remain on development and natural features of the land;
  - l. Soils testing and analysis. A letter of purpose will be prepared, and submitted by a licensed geotechnical engineer that shall consider the findings of the sensitive lands study along with the project engineering, that will determine they type frequency and nature of the geotechnical investigation and subsequent report. The purpose letter will also state what minimum requirements, with respect to geotechnical studies, will be imposed on the subdivided land prior to the issuing of building permits.
  - m. UDOT approval for access off state roads if applicable; approval as required of other state and federal agencies;
  - n. Final grading plans illustrating cut and fill limits and limits of disturbance;
  - o. Temporary construction erosion control plan;
  - p. Final drainage plan illustrating methods of controlling runoff, directing water flow, and detention / retention areas;
  - q. Existing and proposed utilities including, fire hydrants, water and sewer lines, and storm sewer system; including plan and profile.
  - r. Location and elevation drawings of existing and proposed buildings, signs, dumpster and utility enclosures, fences and other structures;
  - s. Landscaping plan;
  - t. Parking, access, and loading plan when applicable;
  - u. Lighting plan, including dark sky initiative;
  - v. Architectural concept plans;
  - w. Tabulation of ERUs, as defined by the Plan
6. Final Plan shall incorporate the criteria and requirements of the following:
- a. Appendix 1 - Road Design Planning Submittal Criteria and
  - b. Appendix 2 - Storm Drainage and Erosion Control Planning Submittal Requirements
  - c. Appendix 3 - Sewer and Water Design Criteria
  - d. Appendix 4 - Modification to WPA
  - e. Appendix 5 - Adoption of Codes
  - f. Appendix 6 - ERU/Equivalent Residential Units
  - g. Manual of Standard Plans 2007 editions APWA
  - h. Manuel of Standard Specifications 2007 editions APWA
7. Final Documentation. The following official documents prepared in a manner that will fully present information:
- a. Articles of Incorporation and Bylaws of the Association;
  - b. Declaration of covenants, conditions, restrictions, and management policies;
  - c. An information brochure (prepared in accordance with applicable standards) for use in the sales program to inform all home buyers in simple terms about the Homeowners Association and the rights and obligations of lot owners;

- d. A final form of certification for each of the following (these are the certifications intended to be placed on the plat):
    - i. Owner' s dedications;
    - ii. Surveyors certificate of accuracy of survey;
    - iii. Surveyor' s approval;
    - iv. Hideout Legislative Body approval;
    - v. Notary Public's acknowledgement
  - e. The Design Review Guidelines governing building design within n the development
  - f. Geotechnical Studies required prior to the issuing of a building permit within the development
8. Procedures for Final.
- a. Submit application along with required fees and 5 copies of all required plans, reports and required documents
  - b. Public Notice as required by the Town of Hideout Standards.
  - c. Hearing before the Planning Commission: The Public hearing before the Planning Commission will be held, and comments requested from the public at that time. If, after such hearing and at such time that the Planning Commission determines that a complete application has been provided it will forward the application along with it's recommendations to the Hideout Legislative Body.
  - d. The matter will be placed on the next available Hideout Legislative Body agenda.
  - e. Public Notice of the Hideout Legislative Body hearing shall be given as required by the Hideout Standards for Public Notice.
  - f. Hearing before the Hideout Legislative Body: The hearing before the Hideout Legislative Body will be held, and comments requested from the public at that time. After such hearing the Hideout Legislative Body will vote to either approve the projects without conditions, approve the project with conditions or to not approve the project.
9. Final Plat Recordation. After gaining final approval a final plat shall be prepared on a reproducible Mylar drawn in accordance with the Town of Hideout standards at a scale not smaller than one inch equals one hundred feet (1" = 100'), and shall show the following:
- a. Boundaries of the development and location of all required survey monuments;
  - b. Location of all lot lines;
  - c. Location and extent of all street and other parcels of land to be dedicated to the public and to be retained in private ownership;
  - d. Location and extent of all easements; and
  - e. The certifications previously proposed and approved as part of the Final Documentation provided.
10. Condominium Plats. The processing of Plats for condominium developments shall follow the procedures set forth in this chapter.
- a. A registered architect or engineer shall certify the Final Condominium Plat.

- b. Conversion of Conventional Apartment Developments. Preliminary Plats shall show the following, in addition to all information required by the department checklist for site plans:
- c. Firewall construction, as required by the International Fire Code, the adopted Building Code;
- d. Additional parking, if required;
- e. Additional open space, if required;
- f. Location of individual utility lines and meters, if required; and
- g. Additional exits.
- h. Final Plats shall show:
  - i. All buildings;
  - ii. Private drives and parking areas;
  - iii. Required assessments;
  - iv. Designation of commonly owned property;
  - v. Necessary dedication statement;
  - vi. Statement concerning the formation of a homeowners' association for the maintenance of the commonly owned property; and
  - vii. Necessary certifications and approvals.
- i. New developments:
  - i. Preliminary Plat shall show all of the information required by the Planning Department's site plan checklist;
  - ii. Final Plats shall show all of the information required in this chapter;
  - iii. Building permits shall be issued in accordance with Final approved Plats; and
  - iv. Final Plats to be approved by the Hideout Legislative Body;

#### 11. No Sale of Lots Until Final Approval

- x. Lot(s), in a development that have not received final approval according to the requirements contained in this Title, may not be sold, advertised for sale, or offered for sale in any manner until after the plat has been recorded.

#### 12. Bonds Guaranteeing Construction of Improvements

#### 13. Definitions.

- a. "Performance Bond" is an instrument, in a form approved by Hideout, with a sum not fixed as a penalty binding the developer to Hideout, to complete certain actions according to the standards in this code and, and any other applicable regulation or condition imposed by Hideout as a condition of approval, conditioned however, that the payment of the penalty may be avoided by the performance by the developer of the acts agreed to in the bond documents. The performance bond must include protection for Hideout against the developer's failure to perform all of the actions specified by the Legislative Body. The bond may consist of one of the following: cash deposited with Hideout; an escrow fund; an irrevocable letter of credit; documentation in a form acceptable to Hideout that demonstrates that the value of the completed improvements of the development are in excess of 200 percent of the proposed new improvements or

collateral in the form of fully improved lots within the development that have a combined value of at least twice the value of the proposed improvements; or a surety bond.

- b. "Warranty Bond" is an instrument, approved by Hideout, with a sum fixed guaranteeing the quality and/or conformance of completed and accepted improvements or other promised performance according to the standards in this code, and any other applicable regulation or condition imposed by the Town as a condition of approval. The warranty bond must provide that in the event the completed and accepted improvements or other promised performance covered by the bond fail, or are found to be less than the accepted standard during the term of the bond, that Hide out has the right to require repair and or replacement, and in the event of failure by the developer to adequately respond, Hideout shall have the right to recover against the warranty bond and repair or replace the covered improvements or other promised performance.
14. Performance Bonding Required. A performance bond shall be posted with Hideout in a principal amount of one hundred ten (110) percent of the total estimated cost of any improvement or other performance required by or promised to Hideout Canyon as part of the development. Such bonds shall be required prior to recording Plats to guarantee the completion of any and all approved improvements within or required by the platted area. The bond may also be required prior to commencement of any approved improvements if the legislative body after reviewing the projects financial information and funding information determines that is required. The estimated cost shall be based upon the estimate of Hideout's Engineer who shall take in to account some or all of the following factors when making his estimate:
- a. The developer's engineering estimate;
  - b. The estimate of any reviewing engineer;
  - c. Any other relevant information.
15. Failure of Performance, Extension of Time. In the event that any performance covered by a performance bond required is not completed within the time period allowed for under the performance bond, the developer may petition Hideout for an extension of time in which to complete the required performance. A one-year extension of time may be granted by Hideout upon application by the developer, upon a showing of good cause and diligent effort by the developer to complete the performance as provided in this chapter.
16. Warranty Bonding. Upon completion of the required improvements or other performance subject to a performance bond, the developer shall petition Hideout for release of the performance bonds. The developer, prior to release of the performance bond, shall obtain a warranty bond warranting the required improvements or other promised performance for a minimum of two (2) years following the date of acceptance of the improvements, by Hideout. The Warranty Bond shall be in the amount of fifty (50) percent of the actual cost of the required improvement or other promised performance. Hideout may waive the warranty bond for those improvements that remain the property of or are part of the development's maintained improvements, if at the discretion of Hideout the development's HOA accepts the improvements and it can satisfactorily demonstrate that it is financial responsible to assume this responsibility. In the event the required

improvement or other promised performance is not completed in a satisfactory manner, Hideout may, at its discretion, for good cause, require an extended warranty of up to five (5) years. The warranty bond provided for herein shall be required in order to insure that the improvements are installed pursuant to the approved plans, are structurally sound, and that no further replacements or repairs are required.

17. Amount of Bonds.

- a. As work is completed, the developer may replace his performance bond with bonds from the Contractor who performed the work. The Contractor's bonds shall name Hideout as a beneficiary. The Developer's performance bond may be released in an amount equal to the approved Contractor's bond. The legislative body may approve partial releases of the Performance Bond prior to final release. A two hundred dollar (\$200.00) fee will be assessed for each release to cover any administrative costs. The releases shall not exceed the Contractor's bond and shall not exceed the percentage of work completed and, at no time prior to final acceptance of the improvements by the Town may the total amount of bond be allowed to be reduced lower than one hundred ten percent (110%) of the value of Hideout's engineer's estimate of the uncompleted improvement(s) or other promised performance.
- b. Warranty bonds required herein must have a face amount of at least fifty (50) percent of the value of Hideout engineer's current estimate of the improvements to be warranted. Developer may not draw against the warranty bond for any purpose other than the replacement or repair of improvements as required and approved by Hideout. At no time prior to expiration of the warranty period warranty bond amount be allowed to be reduced by approved draws lower than twenty five (25) percent of the value of the original value of the warranty.

18. Ridgeline/Views

- a. In order to protect the valuable views of the ridgelines of Hideout, buildings shall not protrude above primary ridgelines, and that an applicant's consideration of views will be consideration during the approval process.

19. Property Access Requirements

- a. **Must Prove Right to Access.** Applications for new developments must show proof that they have secured legal access to their property when their property does not abut to a public road in order to be considered for approval.

# **CHAPTER 7**

## **ZONING CLASSIFICATION, DEVELOPMENT REGULATIONS AND APPENDIXES**

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## **11.07.101: MOUNTAIN ZONE**

### **11.07.102: PURPOSE:**

The (M) Mountain Zone is established for development Hideout that may or may not have services readily available. Development should be in harmony with mountain settings and adverse impacts shall be mitigated. The specific intent in establishing the Mountain Zone is for the following purposes:

1. Provide an appropriate location within the Hideout for the development of mountain residential dwellings.
2. Prevent excessive scattering of mountain dwellings, accompanied by excessively long streets, and infrastructure.
3. Facilitate payment for services rendered by the municipality for streets, fire, police, health, sanitation and other services.
4. Prevent soil erosion generated from excessive streets and soil displacement.
5. Protect the vegetation and aesthetic characteristics of the Hideout canyons and mountains.
6. Encourage the protection of wildlife, plant life and ground water.
7. Protect the health, safety and welfare of the residents of the Town of Hideout by only allowing development that will have appropriate access to and from the development and provide appropriate fire and emergency access.

### **11.07.103: PERMITTED PRINCIPAL USES:**

Those principal uses or categories of uses as listed herein, and no others, are allowed as a permitted use in the (M) Mountain Zone.

Permitted principal uses in the (M) Mountain Zone:

- a. Single family dwellings (detached)
- b. Highway and street right-of-way
- c. Underground gas pipeline right-of-way
- d. Underground water pipeline right-of-way
- e. Water pressure control stations and pumping plants
- f. Underground sewage pipeline right-of-way
- g. Underground power and communication lines.

### **11.07.104: PERMITTED ACCESSORY USES:**

Accessory uses and structures are permitted in the (M) Mountain Zone provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure.

Accessory buildings such as garages, gardening sheds, recreation rooms, and similar structures, which are customarily used in conjunction with and are incidental to a principal use or structure.

Storage of materials used for the construction of a building including a temporary contractor's office and/or tool shed, provided that such uses are on the building site, and provided further, that such use shall be for only the period of construction and thirty (30) days thereafter. Approval is subject to a bond and site plan approval from planning staff.

### **11.07.105: CONDITIONAL USES:**

The following shows the uses and structures that are permitted in the (M) Mountain Zone only after a conditional use permit has been approved, and subject to the terms and conditions thereof.

Conditional Uses in the (M) Mountain Zone:

- a. Single family (attached) as part of a Planned Performance Development
- b. Single Family clustering as part of a Planned Performance Development
- c. Golf Courses as part of a Planned Performance Development
- d. Green Houses
- e. Hotels / Lodges as part of a Planned Performance Development, equestrian facilities
- f. Telephone Relay Towers, Microwave or Other
- g. Electric Utility



- h. Gas Pressure Control Stations
- i. Water Treatment Plant
- j. Water storage
- k. Water storage covered
- l. Swimming pools and incidental bath houses
- m. Underground pipeline right-of way and pressure control stations
- n. Electrical transmission lines

#### **11.07.106: LOT AREA:**

Unless approved as part of a Planned Performance Development, the minimum lot size shall be one 1 acre per dwelling unit. If approved as part of a Planned Performance Development, lot sizes and density shall be in accordance with the approval thereof. Any development with a proposed density greater than one (1) unit per one acre shall be submitted as a Planned Performance Development.

#### **11.07.107: LOT WIDTH:**

Each lot or parcel of land in the (M) Mountain Zone shall have a lot width of at least three hundred (300) feet at the required setback unless approved as part of a Planned Performance Development.

#### **11.07.108: LOT FRONTAGE:**

Each lot or parcel of land in the (M) Mountain Zone shall abut a Hideout or road built to Hideout standards for a minimum distance of three hundred (300) feet. Corner lots shall have a minimum of three hundred (300) feet on both roads. Deviation of this standard may be allowed, if the proposed development is a Planned Performance Development.

#### **11.07.109: PRIOR CREATED LOTS:**

Lots or parcels of land which were legally created prior to the enactment of the requirements of the (M) Mountain Zone shall not be denied a building permit solely for reasons of nonconformance with the parcel requirements of this chapter.

#### **11.07.110: LOT AREA PER DWELLING:**

Not more than one (1) single-family dwelling may be placed upon a lot or parcel of land in the (M) Mountain Zone unless approved as a Planned Performance Development. If a conditional use is obtained, an accessory residential unit may be built within the lot.

### **11.07.111: SETBACK REQUIREMENTS:**

The setback requirements for this zone shall be as follows:

1. Front Setback. The front setbacks for dwellings shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of-way, whichever is greater. If the property is located on a State or Federal Highway, the setbacks shall be a minimum of one hundred and fifty (150) feet from the right-of-way. For buildings abutting upon a Hideout street that is designated as a major collector road the setback shall be eighty-five (85) feet from the center line of any street, or fifty (50) feet from the right-of-way, whichever is greater.
2. Corner Lots. For corner lots, the side setback on the street side shall be the same setback as that required for the front.
3. Rear Setbacks. All permitted structures shall be set back from the rear property line a minimum of thirty (30) feet.
4. Planned Performance Developments. Setbacks shall be approved by the Legislative body on a case-by-case basis during the plan approval process.

### **11.07.112: BUILDING HEIGHT:**

Height of all dwellings, accessory buildings, and/or structures shall not exceed thirty five (35) feet above natural grade. For purposes of identifying the natural ground surface, small localized depressions or mounds should be excluded from the surface data. To determine the maximum building height the natural grade surface shall be raised 35'. This shall be called the Height Restriction surface. No elements of the house shall project above the Height Restriction Surface.

Exceptions: Chimneys and vents that are required to extend above the roof line by code may penetrate the Height Restriction Surface

### **11.07.113: DISTANCE BETWEEN BUILDINGS:**

The distance between any accessory building and the main building shall be twenty (20) feet.

### **11.07.114: SITE PLAN PROVISIONS:**

To obtain a building permit for a dwelling or any other permitted or conditional use, a site plan must be submitted showing existing conditions, structures, topography or any sensitive lands located on the lot. Dwellings shall be designed and constructed in accordance with recommendations from a licensed Geotechnical engineer such recommendations shall be stamped and submitted to the Building department with the building permit application

### **11.07.115: PERMISSIBLE LOT COVERAGE:**

For lots or parcels one acre in size or greater, the LOD for an individual single family use and any accessory structure shall not exceed twelve thousand (12,000) square feet.

### **11.07.116: OFF-STREET PARKING REQUIRED:**

There shall be provided at the time of the establishment of any use or at the time any main building is enlarged or constructed minimum off-street parking, permanently maintained, with adequate provisions for ingress or egress by standard sized automobiles.

### **11.07.117: RESIDENTIAL REQUIREMENTS:**

1. There shall be provided in a private garage, sufficient space for the parking of two (2) automobiles for each unit
2. No portion of a required front yard, other than driveways leading to a garage or properly located parking area, shall be paved or improved to encourage or make possible the parking of vehicles thereon. Parking of vehicles shall not be allowed except in such designated improved parking areas, and shall not be permitted in areas intended to be landscaped.
3. Access to parking spaces and private garages used in conjunction with dwellings of two (2) or less units shall be limited as follows:
  - a. Driveways shall be located a minimum of forty (40) feet from any street intersection;
  - b. No driveway approach shall be located closer than ten (10) feet from a side lot line, excepting an approved shared driveway with the adjoining property. No driveway may interfere with any recorded easement;
  - c. If approved by the legislative body an approved shared driveway on private property may be constructed up to the side or rear property line so long as the driveway does not interfere with a recorded easement or the surface drainage of the lot or adjacent lots where drainage easements are provided. The drainage from the driveway must be kept within the property.
4. Driveways shall be paved with a hard surfaced material such as concrete, asphalt, brick, or stone pavers face.
5. Lots shall be limited to one driveway approach per frontage except where a second driveway approach is specifically approved by the Planning Department to increase safety. Lots that are double-fronted with one (1) frontage on a major collector street, or corner lots with frontage on a major collector street, shall not be permitted to have a drive approach on the major collector street. (7) Driveways shall be a minimum of sixteen (16) feet wide unless International Fire Codes requires a greater width and a maximum of twenty six (26) feet wide.

### **11.07.118: MINIMUM OPEN SPACE REQUIREMENTS:**

The (M) Mountain Zone shall have a minimum amount of Twenty (20) percent open space.

**Intended Uses for Open Space.**

1. Open space should preserve environmentally sensitive areas, including slopes, unstable soils, geologic hazard areas, wetlands, desirable vegetation areas, wildlife habitat, view corridors, flood plains, culinary water sources, aquifer recharge areas, streams, seeps, springs and drainage corridors, ridge-lines, or other environmentally sensitive areas or important features.
2. Roadways, parking, storage areas, residential, and any land within a building lot, whether single family or multi-family, and any area within twenty (20) feet of any building shall be excluded in calculating the required area for open space.
3. Open Space to Remain in Perpetuity. As assurance that the designated open space will remain open and unobstructed from the ground upward, the developers shall execute an open space preservation agreement with Hideout, which agreement shall run with the land and shall be binding upon the developer, heirs, successors, and assigns. The open space agreement shall preclude building on or development of the designated open space areas throughout the life of the development, unless approved by the Legislative Body. The land shall either be dedicated to Hideout for a public use, if acceptable to Hideout, or to the homeowners association to hold as dedicated open space. If deemed appropriate by the Planning Department, for smaller subdivisions, the open space may be contained within the lots owned by separate ownership, but must be deed restricted to prevent building of any structures, including fences thereon.

**11.07.119: OWNERSHIP:**

Open space shall remain under the ownership of the homeowners association. In the event that Hideout accepts dedication of the open space, Hideout shall then assume the responsibility of maintaining the property.

**11.07.120: CONSTRUCTION AND MAINTENANCE:**

The developer shall construct and landscape all areas and build all facilities, as per the approved plan. The Homeowners Association shall maintain all common areas and facilities. Hideout may place a lien upon each property contained within the development for the costs of such maintenance. Such lien may be foreclosed in the same fashion as a lien placed for property taxes.

## **11.07.121: PLANNED PERFORMANCE DEVELOPMENT**

### **11.07.122: PURPOSE:**

The purpose of the Planned Performance Developments Chapter is to encourage imaginative and efficient utilization of land, to develop a sense of community, and to ensure compatibility with the surrounding neighborhoods and environment. This is accomplished by providing greater flexibility in the location of buildings on the land, the consolidation of open spaces and clustering of dwelling units. These provisions are intended to create more attractive and more desirable environments within Hideout to encourage the following:

1. Allow creative use of the land and encourage the preservation of permanent open space and sensitive areas;
2. Permit developers to vary density, architectural styles and building forms on a project-by-project basis, rather than on the basis of traditional zoning concepts, in a manner that will permit developers to create recreational/resort housing styles and amenities, in response to changing markets;
3. Permit developers to situate the various features of their developments in harmony with the natural features of the land more than would otherwise be possible under a lot-by-lot development;
4. Preserve to the greatest extent possible the existing landscape features, watershed, animal habitat and natural amenities and to utilize such features in a harmonious and aesthetically pleasing manner;

### **11.07.123: SCOPE:**

Planned Performance Developments are applicable to the (M) Mountain Zone

### **11.07.124: PERMITTED USES:**

Uses permitted in the Planned Performance Development shall be limited to those uses listed by the provision of the underlying zone, except as follows:

1. Permitted Accessory Uses in common areas or buildings may be used only by the residents of the development, and shall not at any time become commercial for the use of the general public, except for required trails which shall be open to the public.
2. Single family attached
3. Single family clustering

### **11.07.125: CONDITIONAL USES:**

Accessory uses shall include recreational facilities and structures, day care centers, personal services.

### **11.07.126: DESIGN:**

The design of the development shall be guided by the Physical Constraints Analysis, the suitability of soils, slopes, geologic hazards, traffic safety and travel efficiency, enhancement of aesthetic and scenic values, convenience of vehicular access to the development and to the dwellings within the development, un-crowded appearance around buildings, quality of landscaping and other amenities, the preservation of bodies of water, and other significant features. The development should incorporate a compact clustered lot layout that minimizes large amounts of infrastructure.

### **11.07.127: COMPLIANCE WITH THIS TITLE:**

The development will comply with the regulations set forth in this Title, including, but not limited to landscaping, preservation of sensitive lands, lighting, signs, and all other pertinent sections contained therein.

### **11.07.128: MINIMUM OPEN SPACE:**

At least twenty (20) percent of the gross land area contained within the development will be preserved for dedicated open space and not part of the platted lots. A density bonus may be provided to compensate for additional open space, as outlined in the Performance Chart attached hereto.

### **11.07.129: CONTENT OF DEVELOPMENT:**

The development may mix the uses contained within the development between single-family lots and attached housing.

### **11.07.130: DENSITY:**

Density bonus may be awarded by the legislative body based on the criteria established by the Performance Chart. The maximum density bonus will be 150% of the base density. The cumulative ERU total of all phases within a development can not exceed the Maximum density approved by the Legislative body.

Density of individual phases or portions of phases with in a Planned Performance development can not exceed a maximum of 5 ERU's per acre.

### **11.07.131: PERFORMANCE CHART:**

Amenity	
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Base Density	1 ERU per acre
20 % open space preserved	required
Preserves sensitive areas in Open Space	required
Extra unusable Open Space	
Extra usable Open Space for public use	
Improving public open space with public amenities	
Private recreational amenities for development	
Positive Fiscal Analysis	
Use of environmental devices or enhancements	
Design consistent with neighborhood	
Mixture of Housing Types	
Quality and Quantity of landscaping	
Good clustered design	
Good architectural design	
Good streetscape design	
Total Maximum Increase	150%

### **11.07.132: SETBACK:**

The setback requirements for this zone shall be determined by the legislative body as part of the Preliminary plan approval.

### **11.07.133: RESORT SPECIALLY PLANNED AREA (RSPA)**

#### **11.07.134: VISION AND PURPOSE**

The Vision and Purpose for the RSPA is as follows:

1. To create a nationally recognized resort.
2. To Preserve and Enhance the Beauty and Environmental Integrity of the RSPA.
3. To Provide Amenities Supporting Year Round Activities including:
  - a. Density Pods, designed in a manner to support recreational activities of the area;
  - b. Hotels;
  - c. Golf courses and golf club;
  - d. Fitness and wellness centers,
  - e. Meeting facilities;
  - f. Amphitheatre;
  - g. Trail system
  - h. The potential for enhanced lakeside recreation;
  - i. High-end retail, dining and entertainment; transit and people-moving systems to access all major Density Pods and Resort Features and amenities;
  - j. Adequate and accessible parking;
  - k. A wide range of well segmented, upscale real estate products; and
  - l. Immediate access to local recreational activities

#### **11.07.135: DESIGN OBJECTIVES:**

This title has been created to guide the development of the RSPA, to achieve the "Vision," and to encourage a consistent and unified high-level quality of land planning, architecture and public spaces.

#### **11.07.136: LONG DEVELOPMENT PERIODS:**

This Title contemplate that the development of the RSPA, because of its size, design, quality and consideration of market factors, will occur in multiple phases and will take several years to complete. Market circumstances are likely to change many times over the life of the development. Consequently, there are certain flexibilities built into the approval and development process to allow developers to be responsive to the changing expectations and requirements of the buyers and visitors.

1. Specific Objectives:
  - a. Encourage responsible land use practices based on central and compact growth centers rather than scattered development;
  - b. Respect the natural topography of the land and existing vegetation;



- c. Respect the architectural heritage of the region and the quality design precedents set by Hideout Canyon;
- d. Create inspired themes, complete with pedestrian oriented streets and public spaces, humanly scaled buildings, appropriate landscaping, and rustic detailing;
- e. Create a long term operationally sound resort that encourages walking;
- f. Foster the development of year-round amenities and activities that are complementary of each other and consistent with the "Vision;"
- g. Design the RSPA to meet the transportation and parking needs of the entire community, both public and private, properly address snow removal, and provide required services;
- h. Where possible, create a community that is "wired," where visitors and residents will have access to high bandwidth services to experience voice, data and video feeds to every room of every hotel, multi-unit and single family residence in the area.

### **11.07.137: DENSITY GUIDELINES AND PROCEDURES:**

The property contained with-in the RSPA shall be granted 1.5 ERU's per acre as its base density. The development will establish its base density ERU totals (Maximum ERU's for the property included in the RSPA) by multiplying its total acreage contained in the RSPA by 1.5. The development will provide a table with each application that clearly shows its base density total, the total number of ERU's used in each previous phase, the total ERU's of the proposed phase and net ERU's remaining.

This Title creates RSPA density pods (as defined below) that will establish the maximum density that a particular area can be designed for. Resort specially Planned Area.

1. In the event of any inconsistency between the terms of the Other Titles in the Hideout Code, Ordinances and Regulations and this Title, the terms and provisions of this Title shall control.

### **11.07.138: BUILDING CODES:**

The Implementation Guidelines are to be interpreted in a manner which is consistent with the Adopted building regulations and codes of Hideout

### **11.07.139: MODIFICATION OF THIS TITLE:**

These guidelines and standards are intended to guide development within the RSPA throughout the long-term development of the property contained therein. It is crucial to the long-term success of the RSPA that modifications to this Title are permitted in order to respond to changes

in circumstances and market conditions that will inevitably occur over time. The developer may submit changes to this Title for review and approval by the legislative body.

1. The boundaries of the RSPA Area may be modified from time to time by submission of a request for modification by the owner of the property to be added or deleted, and with the approval of a majority of the other owners of property within the RSPA (based on number of approved ERU's for each parcel) and approval of the Legislative Body

#### **11.07.140: ERU CALCULATIONS:**

Calculations of ERUs will be made pursuant to the procedures described and the ERU/Equivalent Residential Units found in Appendix 6

#### **11.07.141: DEFINITIONS PERTAINING TO THE RSPA:**

For purposes of the RSPA, the following definitions shall apply:

1. Setbacks means the distance from the right-of-way line or the property lines before any structure can be built. Chimneys or protrusions in a building may be located within the setback to the edge of the building eaves.
2. Story is defined: residential floors should range from 8-12 feet, commercial use floors in Resort Villages should range from 12-18 feet, and in hotels where meeting space is found it can range up to 30 feet.
3. Density Pods means areas of development. Each Density Pod has associated with it a specified number of Target Equivalent Residential Units (TERU's). Hideout, and the participating landowners understand that these Density Pods are subject to change in size and location as the RSPA master plan actually develops from the concept stage to actual buildable site.
4. FSR (Floor Space Ratio) means the ratio or percentage computed by the floor surface area (or floor plate) of the main floor of a building, as the numerator, and the size of the building parcel, as the denominator.
5. Gross Density means the total Units in a Property, Density Pod or Zone, divided by the acreage in that Density Pod or Zone.
6. Net Density of a Property, Density Pod or Zone is a measure of density determined by computing the total number of Units of the Property, Density Pod or Zone and dividing it by the total acreage in that Property, Density Pod or Zone less the area of any public rights-of-ways or private roads.
7. Resort Village means a center or hub for the RSPA. Resort Villages, and the reason they are important to the success of the RSPA, are described further in Section 3.0. In order to qualify as a Resort Village, the area or Zone must have the attributes listed below. A Resort Village can be located in more than one property:
  - a. A minimum of four of the following planned uses:
    - i. LAND USE PLAN
      1. Condominiums;
      2. Hotels;

3. Timeshares or other shared-ownership products;
  4. Private residence clubs;
  5. Town homes;
  6. Single-family homes;
  7. Seasonal Community Housing or other Affordable Housing
  8. Meeting facilities.
- ii. Other required components;
1. Retail, dining and entertainment facilities;
  2. A minimum of 150 Units (not ERU's) in the Resort Village Zone;

#### **11.07.142: RESIDENTIAL SINGLE FAMILY (RSF):**

Residential Single Family (RSF) is a Classification of a single family housing element in the land use plan is for larger lot development and shall contain detached housing. Housing in the RSF Zone should respond to the topography and the amenities located near the site. Larger lots are typically located on steeper slopes to allow any necessary grading to be integrated back into land form.

1. Permitted Uses. Permitted uses within this RSF Zone include single family detached housing, recreational, trails, golf, and parks.
2. Density per Acre. Gross Density shall not exceed 6 Units per acre.
3. Building Heights. Building heights are limited to thirty five (35) feet or 2 ½ Stories, whichever is greater.
4. Setback. Front setbacks shall be taken from the back of curb or edge of road asphalt (if there is no curb). All other setbacks shall be taken from property lines. The side yard minimum setback shall be 10 feet, the rear yard minimum shall be 20 and front yard minimum setback shall be 20 feet. Larger houses should be located further from roads to avoid dominating the streetscape. and to provide room for sensitive grading transitions into existing slopes. Small units should typically be set closer to the front setback line to provide a more urban pedestrian environment.

#### **11.07.143: RMD RESIDENTIAL MEDIUM DENSITY (RMD):**

The RMD Classification is provided to allow for greater density near recreational facilities such as the golf course and near the Resort Villages.

1. Permitted Uses. Permitted uses within this Zone include residential attached, town homes, timeshares and other shared ownership facilities, condominiums, apartments, flats, seasonal employee housing, recreational, trails, parks and other Resort Features.
2. Density per Acre. The maximum Gross Density for the RMD Zone is 6 to 20 Units per acre.
3. Building Height. Building heights are limited to forty two (42) feet or 3½ Stories, whichever is greater.

4. Setback. Front setbacks shall be taken from the back of curb or edge of road asphalt if there is no curb. All other setbacks shall be taken from property lines. Minimum setback shall be 10 feet; the rear yard minimum shall be 20 feet and front yard minimum setback shall be 20 feet. Larger houses should be located further from roads to avoid dominating the streetscape and to provide room of sensitive grading transitions into existing slopes. Multi-unit structures should be set at the setback line to provide a more urban pedestrian environment.

#### **11.07.144: HC- HOSPITALITY CASITA:**

The HC Classification is provided to allow for small casitas or bungalows as an additional room type for a hotel, other lodging or timeshare or other shared use facility in the RSPA. The HC Classification is available only if it is designed as an additional product to such a facility.

1. Permitted Uses. Permitted uses within the HC Classification include hospitality and short-term rental, timeshare or other shared use facilities, recreational, hospitality support and Resort Features.
2. Density per Acre. The maximum Gross Density allowable for this Zone is 20 to 40 Units per acre.
3. Building Height. The maximum allowable building height is the greater of 25 feet or 2 stories.
4. Setbacks. Property line setbacks for the HC Classification are 15 feet for the rear yard and 12 feet for the front yard. There are no side yard setback requirements.

#### **11.07.145: RVMD – RESORT VILLAGE MEDIUM DENSITY:**

Classification contemplates a mixed use Resort Village, as described in Section 2.3.2.11 and in Section 3.0, with a maximum six (6) Story height limit.

1. Permitted Uses. Permitted uses include convention facilities, hotels, condominium hotels, condominiums, town homes, timeshare and other shared ownership, office, retail, dining, service, community uses, affordable housing, single family residences, entertainment, kiosks and street vendors, equestrian facilities, service, storage, support and Resort Features
2. Density Per Acre. The maximum Net Density allowable for the RVMD Classification is a range from 6 to 70 Units per acre. Commercial uses will be limited to the amount of floor area on the street level Story and to a maximum of fifty percent (50%) of the second Story. Meeting or convention space shall not be deemed to be commercial space for purposes of this limitation.
3. Building Height. The maximum allowable building height is 6 Stories above ground.
4. Setbacks. Not applicable.
5. Density Exclusions. The following items will not be counted as a commercial use, within the meaning of the regulations of the Development Code, for purposes of calculating ERUs for hotels, condominium hotels, other lodging facilities, timeshare, other shared

ownership facilities, convention or entertainment facilities, ski and ski support facilities, golf and golf support facilities and restaurants:

- a. Back of house, support, storage, and service areas as a part of the above mentioned facilities;
  - b. Public space, lobby, restrooms and circulation areas as a part of the above mentioned facilities;
  - c. Stairwells and elevator shafts as a part of the above mentioned facilities;
  - d. Pools, fitness centers, spas and exercise facilities as a part of the above mentioned facilities;
  - e. Parking, Porte cochere and entry areas as a part of the above mentioned facilities;
6. Meeting, conference, convention, function and pre-function areas as a part of or adjunct to the above mentioned facilities;
  7. Kitchens, warming kitchens, food storage and preparation areas as a part of the above mentioned facilities; and
  8. Outdoor seating areas for restaurants and banquet areas as the above mentioned facilities.

#### **11.07.146: RVHD – RESORT VILLAGE HIGH DENSITY:**

This Classification contemplates a mixed use Resort Village.

1. Permitted Uses. Permitted uses include convention facilities, hotels, condominium hotels, condominiums, town homes, timeshare and other shared ownership, office, retail, dining, service, community uses, affordable housing, single family residences, entertainment, kiosks and street vendors, equestrian facilities, service, storage, support and Resort Features.
2. Density per Acre. Maximum Net Density allowable is 6 to 80 Units per acre. Commercial uses will be limited to the amount of floor area on the street level Story and to a maximum of fifty percent (50%) of the second Story. Meeting or convention space shall not be deemed to be commercial space for purposes of this limitation.
3. Building Height. The maximum allowable height shall be 8 Stories. Basement and below grade structures will not be counted as a Story.
4. Setbacks. Not applicable.
5. Density Exclusions. The following items will not be counted as a commercial use, within the meaning of the regulations of the Town of Hideout Land Use and Development Code, for purposes of calculating ERUs for hotels, condominium hotels, other lodging facilities, timeshare, other shared ownership facilities, convention or entertainment facilities, ski and ski support facilities, golf and golf support facilities and restaurants:
  - a. Back of house, support, storage, and service areas as a part of the above mentioned facilities;
  - b. Public space, lobby, restrooms and circulation areas as a part of the above mentioned facilities;
  - c. Stairwells and elevator shafts as a part of the above mentioned facilities; \
  - d. Pools, fitness centers, spas and exercise facilities as a part of the above mentioned facilities;

- e. Parking, porte cochere and entry areas as a part of the above mentioned facilities; meeting, conference, convention, function and pre-function areas as a part of or adjunct to the above mentioned facilities;
- f. Kitchens, warming kitchens, food storage and preparation areas as a part of the above mentioned facilities; and Outdoor seating areas for restaurants and banquet areas as the above mentioned facilities.

#### **11.07.147: NC – NEIGHBORHOOD COMMERCIAL:**

1. Permitted Uses. Permitted uses include convenience stores, restaurants, neighborhood services, offices, parks and Resort Features (as defined in Section 1.07.03 herein).
2. Building Height. The maximum allowable height is 45 feet.
3. Setbacks. Property line setbacks for the NC Classification are 20 feet for the rear, 18 feet for the front and 10 feet for the side.

#### **11.07.148: CS – COMMUNITY SITE:**

The CS Classification contemplates areas and facilities that are gathering places for residents and visitors.

1. Permitted Uses. Permitted uses within areas of the CS Classification include convention/conference centers, equestrian centers, amphitheatres, community centers, parks, trails, overlooks, and other gathering places as determined suitable by the Legislative Body.
2. Density. Not applicable.
3. Height. Not applicable.
4. Setbacks. Not applicable.

#### **11.07.149: OS – OPEN SPACE:**

The OS Classification has as objectives to preserve visual corridors, to provide recreational opportunities, and enhance the "open" feeling of the RSPA.

1. Permitted Uses. Permitted uses include ski areas, golf courses and ancillary uses, trails including equestrian/pedestrian/bicycle/cross-country uses, parks, overlooks, amphitheatres, developed and natural parks, ancillary park facilities, and natural terrain.
2. Density. Not applicable.
3. Height. Not applicable.
4. Setbacks. Not applicable.
5. Roof Slopes. Not applicable.

#### **11.07.150: RF – RESORT FEATURE:**

A Resort Feature is a facility or area which serves as a major attraction. In other words, it provides activities or reasons for visitors to travel to the RSPA.

1. Permitted uses include, but are not limited to, cross country ski trails, golf, lake/water activities, tubing hills, convention facilities, amphitheatres, distinctive pedestrian walks or plazas, skating ponds or rinks, health or spa facilities, water sport areas, swimming pools, trail heads, rock climbing walls and hot springs.

#### **11.07.151: MAXIMUM DENSITY:**

Maximum Density means the sum of the Target Densities of all of the Zones in a Property which is the Maximum Density or maximum ERU's allowable for such Property.

#### **11.07.152: PERMITTED USE CATEGORIES:**

Specific permitted uses within each category are indicated in sections 1.07.10 through 1.07.18 of this title

- RSF - Residential Single Family
- RMD - Residential Medium Density
- HC - Hospitality Casita
- RVMD- Resort Village Medium Density
- RVHD - Resort Village High Density
- NC - Neighborhood Commercial
- CS - Community Site
- OS - Open Space
- RF - Resort Feature

#### **11.07.153: APPLICATION PROCESS:**

The application process for the approval of phases within the RSPA shall be the same as that found in section 11.07.20 of the HDS except for the following:

In order to achieve the goals set by Hideout for the RSPA. The property owner(s) shall endeavor to develop an overall programming plan that identifies uses and proposed density pod locations throughout the planning area. Since this process is likely to be highly influenced by market forces it is anticipated that the programming plan will focus on resort attractions and amenities and not on the required infrastructure and that the plan will be subject to frequent changes. As portions of the plan are complete they may be submitted to Hideout for comment and approval. If approved the plan will then serve as the guiding design and marketing document for the resort.

## **Appendix 1**

### **ROAD DESIGN PLANNING SUBMITTAL CRITERIA**

#### **X.1 REVIEW PROCESS**

All subdivisions, re-subdivisions, Planned Unit Development or any other development or Re-development done within the jurisdiction of these CRITERIA shall be required to submit Traffic reports, plans, construction drawings, specifications and as constructed information in conformance to the requirements of these CRITERIA. It is fully anticipated that the road design components identified below will be included within the full submittal provided by the developer.

#### **X.2 CONCEPTUAL LEVEL ROAD DESIGN PLAN**

At the conceptual level the following general project information shall be provided to The Town for review and approval prior to the development of a Preliminary Plan:

1. General Location and Description of Project;
2. Township, range, section, 1/4 section, (subdivision, lot and block). ;
3. Existing roads. Sidewalks and trails in the proposed development and connecting to the proposed development;
4. Traffic and pedestrian Pattern analysis;
5. Traffic and pedestrian use analysis;
6. Road Design Criteria
7. Proposed road (including sidewalks and trails) concept and how it fits existing roads and traffic patterns, sidewalk and trails;
8. Impact of proposed development on traffic.
9. Discussions of road design problems, including overall area traffic flow, traffic calming, aesthesis, fit to the mountain terrain, snow removal, and minimization of disturbance, coordinating/accommodating utilities and consideration of anticipated structures that the roads will serve.
10. Discussion of the rationale for including or excluding sidewalks and the proposed design criteria relative to pedestrian travel.
11. Indication and discussion of proposed Geometric design criteria including:
  - a. Typical Sections Elements ROW width, Design speed, Pavement width, clear zone width, side treatments Horizontal Design Elements Centerline Radius, Tangent Distance between reverse curves, tangent distance between curves, stopping sight distance,
  - b. Vertical Curve Elements Centerline Grade max./min., crest vertical curve K, sag vertical curve K, minimum length of curve Intersections Offset, crossing angle, approach tangent lengths, approach grades, corner radius



### **X.3 PRELIMINARY ROAD PLANS**

The purpose of a preliminary road plan is to design the major road features, using the criteria approved from the conceptual submittal, of the proposed development or project and to describe all existing conditions and propose facilities needed to conform to the requirements of these Criteria

1. A preliminary plan and/or design of the public improvement.
2. References A. Reference all criteria, master plans, and technical information used in support of preliminary plan.

### **X.4 FINAL ROAD DESIGN PLANS**

The final road design serves to define and expand the concepts shown in the preliminary design or is sufficient of itself to assure conformance to these Criteria. A traffic study and or report prepared and signed by a licensed engineer that practices in the field of transportation shall be included in the final submittal. The conclusions and findings of which shall support the Criteria used for the design and the final design. In addition a soils report will be provided that supports all specified section profiles and specified soil/aggregate materials. The information required for the plans shall be in accordance with sound engineering principles, the technical provisions of any Town manuals (where appropriate), these criteria and other applicable Town ordinances, regulations, criteria or design guidelines. The plans may also be subject to review by outside agencies. The plans shall be signed and sealed by a Professional Engineer registered in the state of Utah.

Reference all criteria and technical information used.

Appendices should include all backup and supporting materials

## **APPENDIX 2**

### **SITE DEVELOPMENT STORM DRAINAGE AND EROSION CONTROL PLANNING SUBMITTAL REQUIREMENTS**

#### **X.1 CONCEPTUAL LEVEL DRAINAGE CONTROL PLAN**

At the conceptual level the following general project information shall be provided to The Town for review and approval prior to the development of a Preliminary Plan.

1. General Location and Description of Project
  - a. Township, range, section, 1/4 section, (subdivision, lot and block).
  - b. Major drainage ways and facilities.
  - c. Area in acres.
  - d. Proposed land use.
2. Drainage Basins and Sub-basins
  - a. Reference to major drainage way planning studies such as flood hazard delineation report, major drainage way planning reports, and flood insurance rate maps.
3. Drainage Design Criteria
  - a. Proposed drainage concept and how it fits existing drainage patterns.
  - b. Discussions of drainage problems, including storm water quality, and potential solutions at specific design points.
  - c. Discussion of detention storage and outlet design.
  - d.
4. Identification of Potential Improvements to Public Drainage Systems
  - a. Identification of potential design concepts and impacts to local drainage systems.

#### **X.2 PRELIMINARY DRAINAGE CONTROL PLANS**

At the time of land zoning, rezoning, or proposal for development or redevelopment, a preliminary drainage report is required in advance of the final drainage report. Five (5) copies of the preliminary drainage report, prepared and signed by a Professional Engineer registered in the State of Utah, shall be submitted to the Planning Commission for review. Reports shall be cleanly and clearly reproduced and legible throughout. Blurred or unreadable portions of the report will be deemed unacceptable and will require resubmittal. Incomplete or absent information may require resubmittal of the report.

The purpose of a preliminary report is to define on a conceptual level the nature of the proposed development or project and to describe all existing conditions and propose facilities needed to conform to the requirements of these Criteria. Each preliminary drainage report shall provide the following report information and mapping. It is recommended that the Preliminary Plan prepared by the developer follow the general outline provided below to facilitate Town review.

## **REPORT CONTENT**

### **General Location and Description**

1. Location
  - a. City, County, State Highway and local streets within and adjacent to the site, or the area to be served by the drainage improvements.
  - b. Township, range, section, 1/4 section, (subdivision, lot and block).
  - c. Major drainage ways and facilities.
  - d. Names of surrounding developments.
  - e. Name of receiving water(s).
2. Description of Property
  - f. Existing ground cover (type and vegetation).
  - g. Area in acres.
  - h. Existing major irrigation facilities such as ditches and canals.
  - i. Proposed land use and ground cover.

### **Drainage Basins and Sub-basins**

1. Major Basin Description
  - a. Reference to major drainage way planning studies such as flood hazard delineation report, major drainage way planning reports, and flood insurance rate maps.
  - b. Major basin drainage characteristics, and existing and planned land uses within the basin, as defined by the planning commission.
  - c. Identification of all nearby irrigation facilities that will influence or be influenced by the local drainage.
2. Sub-Basin Description
  - a. Describe historic drainage patterns of the property.
  - b. Describe offsite drainage flow patterns and impact on development under existing and fully developed basin conditions.

### **Drainage Facility Design Criteria**

1. General Concept. Discuss the following:

- a. Proposed drainage concept and how it fits existing drainage patterns.
  - b. How offsite runoff will be considered and how expected impacts will be addressed.
  - c. Anticipated and proposed drainage patterns.
  - d. Storm water quantity and quality management concept and how it will be employed. The use of computer based models for the evaluation of storm water quality and quantity will not be universally required of new developments, although their use is recommended. Under site specific conditions where it is believed by the Town that impacts from the development may unacceptably impact downstream water quality or quantity however, their use may be required. The recommendation to use computer modeling during the evaluation process is made since it is likely that the review process will check the validity of the developer's conclusions utilizing SEDIMOT or other appropriate computer technology.
  - e. Maintenance and maintenance access.
  - f. Describe the content of tables, charts, figures, plates, drawings and design calculations presented in the report.
2. Specific Details (Optional Information)
    - a. Discussions of drainage problems, including storm water quality, and solutions at specific design points
    - b. Discussion of detention storage and outlet design.
    - c. Discussion of impacts of concentrating flow on downstream properties.

## **Public Drainage Improvements**

If the project requires that drainage improvements be constructed that will be turned over and owned and maintained by the Town, the following must also be provided, obtained, or completed:

1. A preliminary plan and/or design of the public improvement.

## **References**

1. Reference all criteria, master plans, and technical information used in support of concept.

## **MAPPING**

### **Preliminary Report Mapping**

1. The General Location Map shall show the following information and conform to the following standards.
  - a. All drawings shall be 22" x 34' in size.

- b. Map shall provide sufficient detail to identify drainage flows entering and leaving the development and general drainage patterns.
  - c. The general location map should be at a scale of 1" 500' to 1" = 4000' and show the path of all drainage from the upper end of any offsite basins to the defined major drainage ways.
  - d. Identify all major facilities (i.e., irrigation ditches, existing detention facilities, storm water quality facilities, culverts, storm sewers) downstream of the property along the flow path to the nearest major drainage way.
  - e. Basins, basin identification numbers, drainage divides, and topographic contours are to be included.
2. Floodplain Mapping:
- a. A copy of any published floodplain maps (i.e., flood hazard area delineation, flood insurance rate maps)
  - b. All major drainage ways shall have the defined floodplain shown on the report drawings.
  - c. Flood hazards from either shallow overland flow, side channels, or concentrated flows.
  - d. The location of the property in relation to the floodplain(s) and/or flood hazards.
3. Drainage Plan Mapping:
- a. Prepare at a scale of 1" = 20' to 1" = 200' on a 22" x 34" size drawing sheet.
  - b. Existing topographic contours at 2-feet (or less) intervals, in mountainous areas, the maximum interval may be extended to 5 feet. Final plan approval 1 foot contour intervals shall be shown for areas of little relief. The contours shall extend a minimum of 100-feet beyond the property lines.
  - c. All existing drainage facilities within map limits including basin boundaries and sub-boundaries.
  - d. Conceptual major drainage facilities including proposed storm water quality BMPs, detention basins, storm sewers, swales, riprap, and outlet structures it, the detail consistent with the proposed development plan.
  - e. Any offsite feature including drainage that influences the development.
  - f. Proposed drainage patterns and, if available, proposed contours.
  - g. Legend to define map symbols.
  - h. Project name, address, engineering firm and seal, and date the Title block in lower right corner.
  - i. North arrow, scale and available bench mark information and location for each benchmark.

## **X.4 FINAL DRAINAGE CONTROL PLANS, PLAT, DOCUMENT & CONSTRUCTION SPECIFICATIONS**

The final drainage report serves to define and expand the concepts shown in the preliminary report or is sufficient of itself to assure conformance to these criteria. The final report may be submitted at any point during the permitting and platting process, but iii~ be reviewed and approved prior to issuance of any permit.

Five (5) copies of the report shall be submitted to the Planning Commission. Reports shall be typed and bound on 8-1/2" x 11" paper with pages numbered consecutively. Drawings, figures, tables, etc., shall be bound with the report or contained in an attached pocket. The report shall include a cover letter presenting the design for review prepared or supervised by a Professional Engineer licensed in the State of Utah. The report shall contain a certification that reads as follows:

"This report for the drainage design of (name of development) was prepared by me (or under my direct supervision) in accordance with the J provisions of the storm drainage design and technical criteria, and was designed to comply with the provisions thereof. I understand that Hideout does not and will not assume liability for drainage facilities design."

Registered Professional Engineer  
State of Utah No. \_\_\_\_\_  
(Affix Seal)

## **REPORT CONTENT**

The report shall be in accordance with the following outline and contains the following Applicable information:

1. General Location and Description.
  - a. Location
  - b. Information as required for Preliminary Plans.
  - c. Local streets within the adjacent to the subdivision.
  - d. Easements within and adjacent to the site.
2. Description of Property
  - a. Information as required for Preliminary Plans.
  - b. General project description.
  - c. Area in acres.
  - d. General soil conditions, topography, and slope.
  - e. Irrigation facilities.

## **Drainage Basins and Sub-basins**

1. Major Basin Description
  - a. Information as required for Preliminary Plans.
  - b. Identification of all irrigation facilities within the basin that will influence or be influenced by proposed site drainage.
  - c. Sub-Basin Description
  - d. Information as required for Preliminary Plans.

## **Drainage Facility Design Criteria**

The use of computer based models for the evaluation of storm water quality and quantity will not be universally required of new developments, although their use is recommended. Under site specific conditions where it is believed by the Town that impacts from the development may unacceptably impact downstream water quality or quantity however, their use may be required. The recommendation to use computer modeling during the evaluation process is made since it is likely that the review process will check the validity of the developer's conclusions utilizing SEDIMOT or other appropriate computer technology.

The design criteria used in the development of the drainage plan should be clearly identified including a discussion related to the use or implementation of any optional provisions intended by the developer or any deviation from the Criteria. Any deviation from the CRITERIA must be fully justified in the final design report. Development criteria should consider and discuss the following:

1. Previous Studies and Specific Site Constraints
  - a. Previous drainage studies (i.e., project master plans) for the site that influence or are influenced by the drainage design and how implementation of the plan will affect drainage and storm water quality for the site.
  - b. Potential impacts identified from adjacent drainage studies.
  - c. Drainage impacts of site constraints such as streets, utilities, transit ways, existing structures, and development or site plan.
2. Hydrologic Criteria
  - a. Design storm rainfall and its return period(s).
  - b. Runoff calculation method(s).
  - c. Detention discharge and storage calculation method(s).
  - d. Discussion and justification of other criteria or calculation methods used that are not presented in or referenced by the CRITERIA.
3. Hydraulic Criteria
  - a. Identify various capacity references.
  - b. Discussion of other drainage facility design criteria used that are not presented in these criteria.
4. Storm water Quality Criteria
  - a. BMPs to be used for storm water quality control.
  - b. Identify, as appropriate, water-quality capture volume and drain time for extended-detention basins, retention ponds and constructed wetland basins.
  - c. Identify, as appropriate, runoff volume and flow rates for design of water-quality swales, wetland channels, etc.
  - d. Discussion of other drainage facility design criteria used that are not presented in these CRITERIA or other manuals referenced by the Town of Hideout.
5. Waivers from Criteria
  - a. Identify provisions by section number for which a waiver is requested.
  - b. Provide justification for each waiver requested.

## **Drainage Facility Design Discuss the following:**

1. Proposed concept and typical drainage patterns
2. Compliance with offsite runoff considerations.
3. Anticipated and proposed drainage patterns.
4. Proposed storm water quality management strategy.
5. The content of tables, charts, figures, plates, or drawings presented in the report.
6. Drainage problems encountered and solutions at specific design points.
7. Detention storage and outlet design.
8. Storm water quality BMPs to be used.
9. Maintenance access and aspects of the design.
10. Easements and tracts for drainage purposes, including the conditions and limitations for use.

The information required for the plans shall be in accordance with sound engineering principles, the technical provisions of any Town manuals (where appropriate), these CRITERIA, and other applicable Town ordinances, regulations, criteria or design guidelines. The plans may also be subject to review by outside agencies such as JTAC, Federal Emergency Management Agency, U.S. Army Corps of Engineers, Environmental Protection Agency, Utah Water, or other agencies as required. The plans shall be signed and sealed by a Professional Engineer registered in the state of Utah.

## **Conclusions**

The Proposed Drainage Facility Plan will be evaluated based upon the material and data submitted in accordance with these CRITERIA and other manuals referenced by the Town of Hideout. The plan must evaluate the effectiveness of the drainage design in controlling damage from storm runoff, in removing pollutants from storm runoff, and its potential influence on downstream drainages.

## **References**

Reference all criteria and technical information used.

## **Appendices**

Appendices should include all backup and supporting materials including:

1. Hydrologic Computations (Including computer model input and output listings.)
  - a. Land use assumptions regarding adjacent properties.
  - b. Initial and major storm runoff at specific design points.
  - c. Historic and fully-developed runoff computations at specific design points.
  - d. Hydrographs at critical design points.



- e. Time of concentration and runoff coefficients for each basin.
- f. Storm water quality BMP sizing calculations including runoff adjustments for minimizing directly-connected impervious areas.
- 2. Hydraulic Computations (Including computer model input and output listings.)
  - a. Culvert capacities.
  - b. Storm sewer capacity, including energy grade line (EGL) and hydraulic grade line (HGL) elevations.
  - c. Gutter capacity as compared to allowable capacity.
  - d. Storm inlet capacity including inlet control rating at connection to storm sewer.
  - e. Open channel design.
  - f. Check and/or channel drop design.
  - g. Detention area/volume capacity and outlet capacity calculations for flood detention and water quality basins; depths of detention basins.
  - h. Wetland area and area/depth distribution for constructed wetland basins.
  - i. Infiltration rates and volumes for porous pavement or release rates where under drains or infiltration is not possible.
  - j. Flow rates, velocities, longitudinal slopes and cross-sections for wetland channels and water quality swales.
  - k. Downstream/outfall system capacity to the Major Drainage way System.

## **MAPPING**

### **Final Report Mapping**

- 1. General Location Map – Shall include all items as identified for the Preliminary Plan.
- 2. Floodplain Mapping. - Shall include all items as identified for the Preliminary Plan.
- 3. Drainage Plan Mapping. - In addition to those items identified for the development of the Preliminary Plan, Drainage mapping shall include the following:
  - a. Property lines, existing easements, and easements proposed for dedication, with purposes noted.
  - b. Streets, indicating ROW width, flow line width, curb or roadside swale type, sidewalk, and approximate slopes.
  - c. Existing drainage facilities and structures, including irrigation ditches, roadside ditches, cross pans, drainage ways, gutter flow directions, and culverts. Also show pertinent information such as material, size, shape, slope and locations.
  - d. Proposed type of street flow (i.e., vertical or combination curb and gutter), roadside ditch or swale, gutter, slope and flow directions, and cross pans.
  - e. Proposed storm sewers and open drainage ways, including inlets, manholes, culverts, and other appurtenances, including riprap or other erosion protection.
  - f. Proposed structural water-quality BMPs, their location, sizing, and design information.
  - g. Proposed outfall point for runoff from the developed area and, if required, facilities to convey flows to the final outfall point without damage to downstream properties.

- h. Routing and accumulation of flows at various critical points for the initial and water-quality storm runoff events, and major storm runoff events.
- i. Volumes and release rates for detention storage and water-quality capture volume for facilities and information on outlet works.
- j. Location and water surface profiles or elevations of all previously defined floodplains affecting the property. If floodplains have not been previously published, they shall be defined and shown on the drainage plan.
- k. Location, and measured or estimated elevations, of all existing and proposed utilities affected by or affecting the drainage design.
- l. Routing of upstream offsite drainage flow through or around the development.
- m. Location of any improvements included in the appropriate or accepted outfall system plan, major drainage plan, and/or storm drainage plan.
- n. Definition of flow path leaving the development through the downstream properties ending at a major drainage way or receiving water.

## CONSTRUCTION PLANS

For on-site drainage improvements, the final construction plans (22' x 34") shall be submitted after approval of the Final Drainage Report. Ten (10) sets of plans shall be submitted for approval. Upon approval, four sets, stamped and signed, will be returned to the design engineer for use by the contractor, owner and design engineer. However, before any construction work begins, appropriate bonds, letters-of-credit, or other surety as required should be issued to the Town. The construction plans as a minimum and as appropriate will include:

- 1. Plan and profile of proposed pipe installations, inlets and manholes with pertinent elevations, dimensions, type and horizontal control shown.
- 2. Property and right-of-way lines, existing and proposed structures, fences and other land features.
- 3. Plan and profile of existing and proposed channels, ditches swales, and on-site water-quality BMPs with construction details, cross-sections and erosion controls.
- 4. Detention and water quality (if separate) facility grading, trickle channels (if any), outlet and inlet location, cross-sections or contours sufficient to verify volumes, etc.
- 5. Details of inlet and outlet control devices and of all structural components being constructed.
- 6. Maintenance access.
- 7. General overlot grading and the erosion and sediment control plan prepared in accordance with applicable provisions of these criteria and the manual.
- 8. Areas of modular block porous pavement, if any, and installation details.
- 9. Landscaping and re-vegetation plans and details.
- 10. Proposed finish floor elevations of structures.
- 11. Relation of site to current and, if appropriate, modified floodplain boundaries.
- 12. A statement agreeing to maintain and operate all privately-owned facilities (if any) in a working manner and/or in accordance with the requirements of the Utah Water Quality Control Division specified in the storm water discharge permit issued to the Town of Hideout.

13. Signature and seal of a professional engineer preparing these plans.
14. Approval by the Town does not constitute an approval or the issuance of permits by the State of Utah, which approval and/or permits shall be obtained prior to initiating any construction activities on the site.

## **X.5 AS-BUILT DRAWINGS AND CERTIFICATION**

Upon completion of construction, the professional engineer that prepared the design plans (or a professional engineer that assumes the responsibility for the inspection) shall provide a Certification of Inspection verifying that all work was substantially performed in accordance with the approved plans and in substantial compliance with all applicable criteria and that any changes which occurred during construction are included in the as-built drawings. Special circumstances may require that as-built reproducible drawings of the drainage improvements also be provided. Certification of Inspection and as-built drawings (if required) may be required prior to the issuance of a final sewer connection permit or the issuance of a Certificate of Occupancy.

## Appendix 3

### SEWER AND WATER DESIGN CRITERIA

It is the intent of Hideout that sewer and water improvements shall be designed to meet the below design criteria. Designs or portions of designs that deviate from this standard must be noted and have prior approval from Hideout's engineer.

#### POTABLE WATER SYSTEMS

##### Design Criteria

**Required Improvements:** The following improvements are generally required unless waived by the District on the basis of site conditions which make these improvements unnecessary. The design of the improvements will vary depending on site conditions, planning documents adopted by the District that may cover the site or adjoining public properties. Unless otherwise stipulated all improvements shall be designed and built to generally accepted engineering standards.

- a. The distribution system shall deliver water at pressures between 50 and 100 psi pressure, as measured at the main, to each system connection. Water pressure may drop to 20 psi during fire flow scenarios. If necessary, pressure reducing valves shall be placed on the mains. Pressure reducing valves on service laterals in lieu of system PRV's shall only be allowed by the review and approval of the District Engineer. At no time shall water pressure exceed 120 psi to each system connection. At no time shall services be connected to transmission lines.
- b. The water system pumps, storage tanks, transmission and distribution mains, etc. shall be of adequate size to deliver a peak day flow of 2,400 gpd per ERU at velocities less than 7 fps. (As a rule of thumb, use a peak day demand design velocity of 5 feet per second.) The water system shall also have adequate capacity to deliver the peak instantaneous demand and/or peak day demand plus fire flow requirements at a velocity less than 12 fps. The system shall be designed to provide the following fire flows and to meet adopted codes. Fire District standards:

Residential Connections:	2,000 gpm for 2 hours
Commercial Connections:	3,500 gpm for 3 hours
- c. Fire hydrants are required along public ways or walks or drives which are to be snow-plowed. Fire hydrant spacing shall be in accordance with applicable codes. All water mains serving a hydrant shall be a minimum of eight-inch diameter. Each hydrant shall have an auxiliary gate valve located flanged to the hydrant assembly.
- d. A metallic tracer wire and brightly-colored utility warning tape may be required to be placed 1.5' to 3' above all underground utility lines.
- e. All utilities and meter locations must be shown, including water and sewer laterals.
- f. All connections to the water system shall be inspected and metered unless otherwise approved by the local jurisdiction. All connections 4 inches in diameter or larger shall also be provided with a valve at the tee or property line and in other locations subject to the approval of the local jurisdiction. All connections, piping, and appurtenances on the consumer's side of the water meter or beyond a point 5 feet outside of the public roadway

are to~ be maintained privately. Any large addition to the water system, such as a new condominium project or subdivision, may also be required to install a master zone meter.

1. The Water System Connection inspection is in three phases, each phase shall be inspected by the local jurisdiction:
  - i. Excavation, Tapping, and Backfilling
  - ii. Meter Set Request
  - iii. After other Public Improvements (such as asphalt paving) have been completed.
- g. All staging area must be identified. Site survey information including detailed horizontal and vertical information relating to existing and future items may be required.
- h. Methods of temporary and permanent erosion control on construction sites and along all drainage channels, swales, or streams below construction sites.
- i. Wherever possible open channels shall be preserved for all major drainages shown on the Master Storm Drainage Plan. Culverting of these channels is not allowed unless approved by the local jurisdiction. Landscaping and re-vegetating to stabilize soils may be required.
- j. Water system improvements necessary to keep water storage and distribution system fully in accordance with recommendations from the Insurance Services Office and Utah State Board of Health regulations. Improvements required include but are not limited to: reservoirs and appurtenances, including excess capacity as need to provide efficient long-term system operation, pressure reducing stations, pump stations, valves, air release valve vaults, meter vaults, water distribution lines, telemetering, and computer modeling to determine the impacts of a proposed development on the water system.
- k. As-built drawings or record drawings showing the as-built location of all public improvements tied to as-built surface improvements.

## SANITARY SEWERS

### Design Criteria

### Design Regulations:

- a. Sanitary Sewers shall be designed in accordance with all applicable State of Utah standards and adopted codes.
- b. All sanitary sewer systems shall be designed to exclude all storm water runoff, or water from field drainage systems, foundation drains, underground parking structures, roofs, streets, and other paved areas.
- c. Downspout connections, foundation and basement drains, sumps and storm drain Connections shall be prohibited from discharging into the sanitary sewer system.
- d. Grease traps or oil separators shall be sized for peak flows and average loading of grease/oil by an engineer and approved by the jurisdiction prior to placement. The grease traps or oil separators shall be placed to allow access for inspection and cleaning. This applies to commercial and institutional facilities, and any building or lot with the potential of introducing substances that would be detrimental to treatment facilities.

- e. Sewer systems shall be designed to eliminate possible cross connections with culinary water system.

Laterals:

Laterals connected to the public sewers shall meet the following requirements:

- a. Laterals shall be of PVC, ABS (solid wall), HDPE, ductile iron, or other material approved by the local jurisdiction.
- b. Laterals shall have a nominal inside diameter of not less than 4 inches nor greater than 6 inches. Properties requiring laterals greater than 6 inches shall be reviewed and approved by the local jurisdiction.
- c. Each dwelling unit shall be served by an individual lateral unless specifically approved by the local jurisdiction. "Stacked" dwelling units may be served otherwise.
- d. Laterals shall be laid at a minimum slope of 1/4 inch per foot (2%) unless specifically approved by the local jurisdiction.
- e. Laterals should not be located under driveways unless required to do so because of the grade.
- f. A minimum of two cleanouts are required on each lateral. One cleanout is required at the property line within the right-of-way. It is recommended that the second cleanout be located next to the building being served.
- g. In addition to the above, cleanouts shall be installed at intervals not to exceed 100 feet in straight-line runs and for each aggregate change in direction exceeding 135 degrees and behind any bend greater than 22% degrees.
- h. Maintenance for laterals from the building to the main sewer line, including the connection to the main sewer line, shall not be the responsibility of the local jurisdiction unless a maintenance agreement is executed with the local jurisdiction to provide the maintenance.
- i. Laterals for pressure sewer systems for individual building units shall require special approval from the local jurisdiction.
- j. Laterals extending under structures, such as retaining walls, shall be installed in rigid conduit or casing in area of the structure. Where a lateral crosses under a retaining wall, storm drain box, or other structure, a minimum vertical separation of 18-inches shall be maintained.
- k. Laterals, when constructed in conjunction with new sewer lines, shall extend from the sewer main to five (5) feet beyond the right-of-way or property line, or as indicated in approved construction drawings. Laterals deeper than fifteen (15) feet shall extend to ten (10) feet beyond the right-of-way or property line or as indicated in approved construction drawings.
- l. An approved Inspector shall witness all lateral installations before backfilling. Buried laterals not inspected, witnessed or verified will be re-excavated and the end of the lateral exposed for verification at the expense of the contractor.
- m. A brightly colored utility warning tape shall be used. The tape shall be placed in the partially backfilled trench one and a half to three feet above the lateral and lay along the laterals entire length to help to locate the pipe when digging.
- n. Immediately following installation of the lateral, sewer lateral markers (rebar) are to be installed by the contractor at the end of each lateral. The marker is to be placed at the end of the plugged lateral and extended upward 2 feet above grade, painted green, and is to be

visible at Final Construction Approval. In addition, the end of the lateral shall be referenced with horizontal distance ties to property corners. In the absence of established property corners, ties to construction survey control hubs (off-sets) shall be used. In the event rebar markers or off-set hubs are lost during construction activities, off-set hubs and rebar markers shall be reset using accepted survey practices and procedures as soon as practical after earthwork is completed and the hubs shall remain in place until satisfactory reference points (property corners with distance ties) are established.

**Design Period:** The sewer system shall be designed to serve the estimated ultimate tributary area and shall be based on the best information available, including Master Plan Study, current zoning regulations and approved planning and zoning reports when available.

**Design Capacity:** Design average flow shall be estimated at not less than 100 gallons per capita per day, including infiltration at 200 gallons per diameter inch per mile per day. To accommodate peak flows, sewers shall be designed, flowing full, to carry not less than the following contributions:

1. 4-inch and 6-inch laterals: 400 gallons per capita per day.
  2. 8-inch thru 15-inch sewers: 400 gallons per capita per day.
  3. Larger than 15-inch sewers: 250 gallons per capita per day.
- a. Flow from commercial, municipal and industrial connections.
  - b. Additional ground water infiltration, if applicable.
  - c. Infiltration flow rates previously stated apply only to the design of the sewer system.
- These rates do not apply to sewer line construction and Final Construction Approval.

**Alternate Methods of Design:** If use is made of methods of sewer design other than those described above, a complete description of methods used shall be presented to the local jurisdiction for approval.

**Sewer Size:** All public sewers shall be 8 inches in diameter or larger. This requirement does not necessarily imply 8-inch and larger laterals are public sewers.

**Sewer Depth:** Sewers shall be placed deep enough to serve all adjacent properties assuming that adjacent properties will have buildings with basements to be served by the sewer system. (2% minimum grade on laterals from basements). The Sanitary sewer lines shall be below frost line at all points. (The generally accepted frost line depth for Hideout area is approximately 60".) For specific instances and when approved by the local jurisdiction, less cover may be approved. Sanitary sewer lines shall maintain an 18 inch vertical separation from any adjacent waterlines.

Sewer Slopes: All sewers shall be designed and constructed for mean flow velocities, when flowing full, of not less than 2.0 feet per second, based on Kutter's formula using an 'n' value of 0.013. The following are the minimum slopes which shall be provided; however, slopes greater than these are desirable, especially in the upper reaches of sewer systems.

Sewer Size	Minimum Slope in Feet per 100 Feet
8"	040
10"	028
12"	022
14"	017
15"	015
16"	014
18"	012
21"	010
24"	0.08

Sewers on slopes 3:1(33.3%) or steeper shall be anchored immediately downstream from bells with concrete anchors or approved equal as follows:

- a. Not over 24 feet center-to-center on slopes 3:1 to 2:1(33.3% to 50%).
- b. Not over 16 feet center-to-center on slopes steeper than 2:1 (50%)

Sewer Alignment:

- a. Sewers shall be designed on straight alignment between manholes.
- b. Sewer lines shall be located at a sufficient distance from curb and gutter and other structures to eliminate disturbance during possible future repair of the sewer line.

Curved Sewers:

- a. Curved sewers shall be allowed with HDPE pipe materials only. Curvature shall not be deflected to a smaller radius than the manufacturer's recommended minimum radius and shall be installed in accordance with manufacturer's requirements for curved installation.
- b. Curved sewers shall not be allowed on grades of less than 5%.with out approval of the local jurisdiction.
- c. All sewers may have a vertical curve OR a horizontal curve only in a reach between manholes.

Pipe Transitions: At manholes, where sewer diameters change, the flow energy gradient shall be continuous. The 0.8 depth of the two sewers shall be placed at the same elevation, with proper allowance for any manhole head loss, or as required to provide proper flow.

Manholes:

Location:



- a. Manholes shall be installed at the end of each line, at all changes in pipe size, or changes in alignment or grade; at all junctions, and at intervals not to exceed 400 feet.
- b. Manholes shall be provided at street intersections.
- c. Watertight, seal-down covers shall be provided in areas subject to flooding. Flood plains shall be avoided. If flood plains cannot be avoided, the manhole lid shall be water-tight and set 1 foot above the 100-year flood elevation.
- d. Manholes shall not be positioned in waterways, such as gutters.
- e. Manholes shall not be placed within 10 feet of catch basins or in low joints where catch basins are located.
- f. Manholes shall be placed within a five (5) foot offset from the street centerline whenever possible. If circumstances warrant and as specifically approved by the local jurisdiction, manholes may be located outside the five-foot offset. However, in these special cases the manhole shall be located within the pavement with a minimum distance of 2.5 feet required between edge of pavement, concrete curb or gutter, and edge of manhole rim.
- g. New sewer lines located along new and existing roads are governed by the above criteria. However, if shown that placing a new sewer line in an existing road is detrimental to the existing road, cost prohibitive, and the alternative is in the best interest of Hideout, as determined by Hideout, the sewer line may be located off the roadway providing the following requirements are met:
  1. The sewer line shall be located at least five feet outside of the pavement and within the right-of way. The sewer line shall not be placed under existing or planned sidewalks or other utilities. Manholes shall be marked with a 3 foot treated wood or plastic post with "sanitary sewer" written thereon.
  2. The shoulder of the road from the edge of pavement to each manhole shall be at the level of the paved surface including an area around each manhole sufficient in size to allow for easy access to and maintenance of the manholes.
  3. The top of manhole castings shall extend two to six inches above finished grade.
  4. Grading around the manholes shall provide for side road drainage and drainage away from the manhole.
  5. Five foot separation from other utilities.
- g. Back lot sanitary sewer lines shall be generally described as public sanitary sewer lines and manholes where the following conditions apply:
- h. A section or sections of sewer line (manhole to manhole) is located outside of paved surfaces and;
- i. A section or sections of sewer is not accessible, for maintenance purposes, from a manhole which is within 10 feet of the edge of pavement. The use of back lot sewer lines shall be avoided in the design of public sanitary sewers. In the event design conditions warrant the use of back lot sewer lines, the use of such lines is subject to review and approval by the local jurisdiction.

The following items may be required for Final Design Approval:

1. Special design considerations (i.e. greater pipe slopes, erosion protection, etc.)
2. Access roads and easements.
3. Back lot Maintenance Agreement between the Developer and special service district.

Inverts: The minimum drop through manholes shall be 0.2 feet.

- a. Flow channels through manholes shall be shaped to conform to the cross-section of the connecting sewers. In the case of pre-cast manhole bases with different diameters of connecting sewer, the larger diameter will determine the size of the pre-cast channel.
- b. Flow channels shall be smooth with a uniform grade from inflow to outflow pipe flow lines.
- c. The amount of drop through manholes and the information to be shown on the construction plans shall be determined as follows:

Slope of Connection	Amount of drop determined by	Information to be shown on construction plans
Minimum slope to 5%	0.2 feet through manhole	In and out elevations shown on profile
5% to 20%	Smooth transition between connecting sewers	In and out elevations shown on profile
20% and above	Smooth transition between connecting sewers	In and out elevations shown on profile. Manhole base detail including plan and at least one section

In addition to the above information, a manhole base detail shall be required when the horizontal deflection angle of the connecting sewers is ninety degrees or greater, or when requested by the local jurisdiction. Horizontal deflection angles greater than ninety degrees shall only be allowed with approval of the District Engineer.

Sufficient information should be shown on the construction drawings to provide for efficient design review, construction, and inspection.

Drop Connections: Shall be used whenever the elevation difference between the inverts of the Inflow pipe and the outflow pipe exceed eighteen inches. Drop connections must be constructed with internal drops and are subject to approval by the local jurisdiction.

Diameters: Manhole diameters shall be at least 48 inches. Manholes on sewer lines 15 inches and greater, or 16 feet and deeper, shall be 5 feet in diameter. 5-foot diameter manholes shall be indicated on the Final Design Drawings.

Shallow Manholes: Shallow manholes shall be required for depths less than 6 feet and are subject to approval by the local jurisdiction. Shallow manholes shall be indicated on the Final Design Drawings.

Cleanouts: Cleanouts shall not be used as an alternative to manholes on sewer lines 8 inches in diameter and greater.

Protection of Water Supplies: It is generally recognized that sewers and appurtenances must be kept remote from public water supply wells and other water supply sources and structures.

The following specific requirements shall be observed at all times:

1. There shall be no physical connection between a public or private potable water supply system and a sewer, or appurtenances thereto, which could permit the passage of any wastewater or polluted water into the potable supply.
2. Sewers shall be laid at least 10-feet horizontally from any existing or proposed water main.
3. Where a water line and sewer line must cross, the water line shall be at least 18-inches above the sewer line.
4. The above requirements shall apply to sewer laterals and water service lines to a building.
5. Refer to the State of Utah Administrative Rules for Public Drinking Water Systems, Section R309-21 1-7 for installations that are not mentioned in the above specific requirements.

Easements:

- a. Easements shall be required on all public sewers not located in dedicated public roadways.
- b. All easements shall be wide enough for future maintenance.
- c. Easements shall extend ten feet beyond the last manhole or last section of public sewer pipe.
- d. When a sewer is located in an easement, not abutting a street right-of-way, access easements shall be provided.
- e. Dedication Plats or signed public utility easements shall be submitted, reviewed, and approved along with Final Design Plans. Whenever the Final Design plans precede the Dedication plat, a letter indicating that all public utility easements will be granted by plat, shall be provided.
- f. A display shall be attached to all easements showing the location in relation to the sewer line.

Wastewater Pumping Stations: Use of wastewater pumping stations will be avoided whenever possible. Pumping stations are subject to approval and review by the local jurisdiction.

## **Appendix 4**

### **Modifications to the AWWPA Documents**

#### **MANUAL OF STANDARD PLANS**

1. Plan no. 110 – Arrow Diagram for Project Closeout
  - a. Delete Step “F”
2. Plan no. 231 – Concrete Sidewalk
  - a. Delete the 6” thickness requirement and the formula for “L max”.
  - b. Add note 6., to read as follows
    - i. 6. Cross slopes greater than 3% will be cause for rejection.
3. Plan no 232 – Patterned concrete Park Strip
  - a. Add note 7. to read as follows:
    - i. 7. In park Strips wider than 24”, poured concrete is not allowed. (See SLC code 21A.48 for park strip landscaping requirements.)
4. Plan no. 238 – Detectable Warning Surface
  - a. Delete note 2.A.2
5. Plan no. 251 – Asphalt Concrete Pavement Tie-in
  - a. Amend note to read as follows:
    - i. 5.A Install in lifts no greater than 4 inches after compaction.
6. Plan no. 256 – concrete Pavement Patch
  - a. Amend note 4 to read as follows:
    - i. 4. reinforcement: ASTM A615, Grade 60, no. 5 epoxy coated deformed steel 24 inches on center.
7. Plan no. 261 – Drawing 1, Concrete Pavement Joints
  - a. Amend note 1 to read as follows:
    - i. 1. Reinforcement: ASTM reinforcement: ASTM A615, Grade 60, No. 5, 18 inches long epoxy coated deformed steel rebar or smooth steel dowels as indicated.
      - a. Space rebar and dowels at 24 inches on center
      - b. Grease dowels to provide movement in expansion joints.
      - c. Keep tie bars in the vertical center of the concrete slab and perpendicular to the joint during concrete placement.

#### **2. MANUAL OF STANDARD SPECIFICATIONS**

1. Document 007200 General Conditions
  - a. Delete in its entirety.
2. Division 01 – General Requirements
  - a. Amend as follows:
    - i. Section 012400 Value analysis – delete the entire section.
    - ii. Section 012500 Product Options and Substitutions – delete the entire section.
    - iii. Section 012600 Contract Modification Procedure – delete the entire section.
    - iv. Section 012900 – Payment Procedure – delete the entire section.
    - v. Section 013113 – Coordination – Delete 1.4A.
    - vi. Section 013119 – Preconstruction Conference – Delete 1.2B in its entirety.
    - vii. Section 013119 – Preconstruction Conference – Amend 1.2C to read as follows: 1.2C – The purpose of conference is to designate responsible personnel and establish a working relationship. Matters requiring coordination will be discussed and procedures for handling such matters established. Agenda items may include but are not limited to: 1. Distribution of approved plans; 2. contractor’s schedule; 3. Material submittal and testing requirements; 4. Traffic Control; 5. Record Documents.
    - viii. Section 013216 – Progress Schedule – Delete the entire section.
    - ix. Section 013510 – Acceptance – Amend 1.2A to read as follows: 1.2A. – Acceptance testing: Testing is accomplished by a testing agency employed by the contractor to verify product or work complies with the contract documents. Engineer may choose to perform tests and use them as the basis for acceptance.
    - x. Section 013510 – Acceptance – Amend 1.3A to read as follows: 1.3A – Physical testing will be accomplished by the testing agency employed by the contractor.
    - xi. Section 013610 – Acceptance – Delete 1.3.B and 1.3.C.4
    - xii. Section 013510 – Acceptance – Amend 1.4B to read as follows: 1.4B – Engineer is not obligated to accept material, product or work if it is clearly defective, even if passing tests are obtained on samples of the material in question.
    - xiii. Section 013510 – Acceptance – Amend 1.5B to read as follows: 1.5B – If contractor does any retesting of asphalt cores, permission from the engineer is required prior to retesting. Engineer may choose to perform tests and use the results as the basis for acceptance.
    - xiv. Section 013510 – Acceptance – Amend 1.5 D to read as follows: 1.5D – All testing or retesting performed by the contractor shall be done at no expense to the owner.
    - xv. Section 014340 – Resident Superintendent – Delete the entire section.
3. Amend Division 31 – Earthwork as follows:

- a. Section 310513 – Common Fill – Amend 2.2A to read as follows: 2.2A – The maximum particle size shall not exceed 4” and the percent passing to the no. 200 sieve shall not be greater than 12% unless approved by the engineer.
- 4. Amend Division 32 – Exterior Improvements as follows:
  - a. Section 321205 – Asphalt Concrete – Delete 1.5A.2 and 1.6A.3.
  - b. Section 321205 – Asphalt Concrete – Amend 1.6C.3.c and table 1 as follows: Pay factors are not applicable. If the mean of the deviations of test results for one day’s production is greater than the amount shown in table 1 for the 0.85 pay factor, the engineer may require the removal of the pavement or the installation of a seal coat at no expense to the owner.
  - c. Section 321216- Plant Mix /Asphalt Paving – Delete 1.7A.2, 1.7A.3, 1.7A.4, 1.7F and 1.7G, Table 1, Table 2 and Table 3.
  - d. Section 321216 Plant Mix / Asphalt Paving – Amend 1.7E to read as follows:  
1.7E. Compaction and thickness: Pay factors are not applicable. Submit core test results at the rate of 1 test per 1000 square yards. The average compaction density shall be between 92% and 96% of theoretical maximum specific gravity, ASTM D 2041 (rice method) with no test lower than 89%. The average of all core thickness tests shall not be deficient by more than ¼” with no test deficient by more than ½”. If these requirements are not met, the engineer may require a seal coat, an overlay, or removal of the pavement at no expense to the owner.
  - e. Section 321313 – Concrete Paving – Delete 1.7A.2, 1.7A.3, 1.7C.2.b, 1.7C.2.c, and 1.7C.2.d
  - f. Section 321313 – Concrete Paving – Amend 1.7B.3 to read as follows: 1.7.B.3 Pay factors are not applicable. The average of the 28 day compressive strength tests shall exceed 4000 PSI.
  - g. Section 321313- Concrete Paving – Amend 1.7.C.2.a to read as follows: 1.7.C.2.a Pay factors are not applicable. Coring for thickness determination is not required unless more than 500 square yards is installed. The average thickness shall be within ¼” of the design thickness with none of the concrete deficient from the design thickness by more than ½”.
  - h. Section 321613 – Driveway, Sidewalk, Curb, Gutter – Delete 1.6.A.2 and 1.6.A.3.

## APPENDIX 5

### ERU / EQUIVALENT RESIDENTIAL UNITS

Configuration	Notes	ERU's
Motel/Hotel Room*	Not to exceed 500 sf including bathroom areas, but not including corridors outside of room.	.25
Hotel Suite or One Bedroom Apartment	Not to exceed 700 sf including bathroom areas but not corridors outside of rooms	.33
One Bedroom Apartment or Two Bedroom Apartment	Not to exceed 1000 sf and not to exceed 1 ½ baths.	.50
Apartment / Condo	Not to exceed 1500 sf	.75
Single Family Residences	Up to 5000sf, plus an incremental increase based on impacts to the District	1.00
Commercial	For each 2000 sf of gross floor are, or for each part of a 2000 sf interval	.86

- \* Motel/hotel uses must be declared at the time of site plan submittal, and are subject to review for neighborhood compatibility. Within a hotel, up to 5% of the total floor area (as defined in the current building code) may be dedicated to meeting rooms, and an additional 5% for support commercial areas, without requiring the use of a unit equivalent of commercial space.

## **CHAPTER 8**

### **GENERAL PLAN ADMINISTRATION**

#### **Section**

11.08.101:	GENERAL PLAN ADMINISTRATION
11.08.102:	PURPOSE
11.08.103:	SCOPE
11.08.104:	GENERAL PLAN INTERPRETATION
11.08.105:	GENERAL PLAN AMENDMENT
11.08.106:	APPLICATION PROCEDURES
11.08.107:	NOTIFICATION PROCESS
11.08.108:	APPEAL OF HIDEOUT LEGISLATIVE BODY ACTION
11.08.109	HIDEOUT LEGISLATIVE BODY ACTION
11.08.110	GENERAL PLAN CONSISTENCY

#### **11.08.101 GENERAL PLAN ADMINISTRATION**

#### **11.08.102: PURPOSE:**

The purpose of this chapter is to establish guidelines and procedures for amendment, maintenance and administration of a comprehensive, long-term General Plan and for the conservation and development of portions of the Town of Hideout. The plan and procedures are to be consistent with State planning statutes.

1. The purpose of the Hideout General Plan is to set policies to guide future growth and development in a manner consistent with the goals and quality of life desired by Hideout citizens. The Hideout General Plan is intended to be an integrated and internally consistent statement of policies to serve as a clear and useful guide for land use planning for public agencies and private citizens. The General Plan forms the basis for the Town of Hideout's zoning, subdivision and other land use regulations and for such implementation measures as capital improvement programs, housing programs, and growth management programs.
2. The General Plan is based on community values and an understanding of existing and projected conditions and needs, all of which are subject to change. The General Plan Amendment process established by Utah State Law and this chapter therefore enables the General Plan map designations and/or written policy statements to be changed. The General Plan is a policy document for the entire Town of Hideout and may be amended only if the amendment is in the best interest of the residents on a town wide basis. Every General Plan Amendment must be consistent with the rest of the General Plan or appropriate changes must be made to maintain internal consistency.



### **11.08.103: SCOPE:**

This chapter requires the Town of Hideout to maintain a comprehensive General Plan consistent with state statutes and establishes procedures for interpretation and amendment of the General Plan. Administrative procedures are also provided for an annual review of the General Plan and a review of public works projects.

### **11.08.104: GENERAL PLAN INTERPRETATION:**

Where disputes arise over the interpretation of General Plan policies or mapping designations, such interpretation shall be resolved by a majority vote of the Hideout Legislative Body based on a report by the Planning Commission.

### **11.08.105: GENERAL PLAN AMENDMENT:**

1. Amendment Initiation. A General Plan Amendment may be initiated by:
  - a. A Resolution of Intention by the Hideout Legislative Body or the Planning Commission;
  - b. An application by a property owner, an interested party having the owner's authorization, or any member of the general public.
2. Amendment Frequency. Proposed amendments to the General Plan will be considered by the Hideout Legislative Body once each calendar year in November.
3. Consistency of Land Use. When a General Plan amendment is approved by the Hideout Legislative Body and the amendment affects the land use designation of specific properties, those properties shall be concurrently rezoned to a zoning district(s) as necessary to maintain consistency with the General Plan.

### **11.08.106: APPLICATION PROCEDURES:**

1. Application. Application to amend the General Plan shall be accompanied by a written description of the proposed amendment, the reasons for the request, and any supporting information as may be available, appropriate or as requested to process the application. General Plan Amendments for specific properties shall be accompanied by an application to rezone the property to a zoning district consistent with the proposed amendment.
2. Fees. Applications for General Plan Amendments shall be processed on a full cost recovery basis, in accordance with the Town of Hideout Ordinance Setting Fees.
3. Physical Constraints Analysis. A General Plan Amendment shall require a Physical Constraints Analysis to be submitted with the application.

### **11.08.107: NOTIFICATION PROCESS:**

Notice of a proposed amendment to the General Plan shall be consistent with the requirements of State law.

#### **11.08.108: APPEAL OF HIDEOUT LEGISLATIVE BODY ACTION:**

1. If a proposed amendment to the General Plan is initiated by Resolution of the Hideout Legislative Body or by application of a property owner, interested party, or member of the general public, and the Hideout Legislative Body fails to approve the proposed amendment, that decision is final unless appealed to the Board of Adjustments within thirty (30) days of the date of the Hideout Legislative Body's decision.
2. If a proposed amendment to the General Plan is initiated by Resolution of the Hideout Legislative Body, the Planning Commission will review the proposed amendment and recommend approval or denial to the Hideout Legislative Body for a final decision.

#### **11.08.109: HIDEOUT LEGISLATIVE BODY ACTION:**

1. Public Hearing. After receiving the Planning Commission recommendation, the Hideout Legislative Body shall hold a public hearing on the proposed amendment after giving notice as required by state law. The public hearing shall be set for the November public hearing of the General Plan Amendments.
2. Action on Planning Commission Recommendation. The Hideout Legislative Body may approve, modify, or disapprove the Planning Commission's recommendation, provided that any substantial modification, not previously considered by the Planning Commission, shall be referred to the Planning Commission for a report and recommendation.
3. Referral. If the Hideout Legislative Body initiates an amendment to the General Plan, the proposed amendment shall first be referred to the Planning Commission for a report. The Planning Commission shall hold a public hearing after giving notice as required by state law and shall submit a report to the Hideout Legislative Body.

#### **11.08.110: GENERAL PLAN CONSISTENCY:**

1. Land Use Regulation. All land use regulations including building, zoning, subdivision and environmental protection regulations shall be consistent with the adopted General Plan. No discretionary land use project, public or private, shall be approved by the Town of Hideout unless it is found to be consistent with the adopted General Plan.
2. Reviewing Department. The Planning Department is designated as the department authorized to review discretionary land use projects, public or private, and to make findings regarding whether such projects are consistent with the General Plan.

## **CHAPTER 9**

### **CONDITIONAL USES**

#### **Section**

- 11.09.101: PURPOSE
- 11.09.102: CONDITIONAL USE PERMIT
- 11.09.103: APPROVAL OF CONDITIONAL USE PERMIT
- 11.09.104: NOTIFICATION OF A CONDITIONAL USE
- 11.09.105: APPEALS OF DECISION
- 11.09.106: INSPECTION
- 11.09.107: TIME LIMIT
- 11.09.108: DETERMINATION AND CONSIDERATIONS
- 11.09.109: STANDARDS FOR CONDITIONS
- 11.09.110: CONDITIONS RELATING TO SPECIFIC TYPES OF USES

#### **11.09.101: PURPOSE:**

The purpose of this chapter is to allow the proper integration into the town of uses which may be suitable only in certain locations in the Town, and only if such uses are designed or laid out on the site in a particular manner.

#### **11.09.102: CONDITIONAL USE PERMIT:**

A conditional use permit shall be required for all uses listed as conditional uses in the zoning district regulations or elsewhere in this title. A conditional use permit may be revoked upon failure to comply with or failure to maintain conditions precedent to the original approval of the permit.

A. Application: Application for a conditional use permit shall be made by the property owner or certified agent thereof to the planning staff.

B. Considerations Of Conditional Use Procedure: The application shall be accompanied by maps, drawings, or other documents sufficient to meet the requirements of a site plan review for those conditional uses which require such a review, and sufficient to demonstrate that the general and specific requirements of this title will be met by the construction and operation of the proposed building, structure or use. In considering an application for a conditional use permit,

the planning commission shall give due regard to the nature and condition of adjacent uses and structures. The commission may deny a permit; may grant a permit as applied for; or may grant a permit subject to such requirements and conditions with respect to location, construction maintenance, operation and duration of the proposed use as it may deem necessary for the protection of adjacent properties and the public interest. The granting of a conditional use permit shall not exempt the application from other relevant provisions of this or other ordinances of the Town.

C. Fee: The appropriate fee as authorized in the Town's fee schedule shall accompany the application for any conditional use permit.

### **11.09.103: APPROVAL OF CONDITIONAL USE PERMIT:**

A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

### **11.09.104: NOTIFICATION OF A CONDITIONAL USE:**

At least seven (7) days prior to the planning commission meeting during which the conditional use will be considered by the commission, a designated agent shall publish a notice in a newspaper of general circulation stating the proposed or requested use, and the date, time and location of the planning commission meeting in which the conditional use will be considered.

### **11.09.105: APPEALS OF DECISION:**

Any person shall have the right to appeal the decision of the planning commission to the Town Council. Such appeal shall be applied for within thirty (30) days from the date of the decision of the planning commission. Upon receipt of such appeal, the Town council shall respond within forty five (45) days.

### **11.09.106: INSPECTION:**

Following the issuance of a conditional use permit by the planning commission, the planning director may approve an application for a building permit and shall ensure that development is undertaken and completed in compliance with said certificate and permit.

### **11.09.107: TIME LIMIT:**

Unless the uses and conditions prescribed in a conditional use permit are implemented within a maximum period of one year of its issuance, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months under exceptional circumstances. If the application is not approved, a reapplication shall not be submitted for the same purpose for a minimum period of twelve (12) months.

### **11.09.108: DETERMINATION AND CONSIDERATIONS:**

The planning commission may allow a conditional use to be located in any zoning district in which the particular use is allowed as a conditional use by this title. In authorizing any conditional use, the planning commission shall impose such requirements and conditions necessary for the protection of adjacent properties and the public welfare. The planning commission shall not authorize a conditional use permit unless the evidence presented is such as to establish that the proposed use:

- A. At the specified location, is in harmony with the general intent and purpose of the general plan and the applicable zoning district regulations;
- B. Is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood;
- C. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and
- D. Conditions imposed by the planning commission shall be based upon options described in this chapter or any special conditions or requirements as may be specified elsewhere in this title.

## **11.09.109: STANDARDS FOR CONDITIONS:**

Applicants for conditional use permits shall meet all specific requirements made in this title. In addition, the planning commission may establish conditions as outlined herein to meet the concerns of safety for persons and property, health and sanitation, environment, comprehensive plan proposals and neighborhood needs, performance and administration. More specifically, the planning commission may require:

A. Compliance: Conditions relating to compliance with the intent of the comprehensive plan and characteristics of the zoning district:

1. The placement of conditional uses only in specific areas of a district, e.g., along an arterial or collector street.
2. The removal of structures, debris or plant materials incompatible with the desired characteristics of the district.
3. The screening of yards or other areas as protection from obnoxious land uses and activities.
4. Landscaping in addition to that already required ensuring compatibility with the intended neighboring land uses.
5. Limitations or controls on the location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent development, or to conceal storage areas, utility installations, or other unsightly development.
6. The relocation of proposed or existing structures as necessary to provide for future streets on the master street plan, adequate sight distances for general safety, ground water control, or similar problems.
7. Provision for construction of recreational facilities necessary to satisfy needs of the conditional use.
8. Modification to allowed population density and intensity of land use where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare.

9. Other improvements which serve the property in question and which may compensate, in part or in whole, possible adverse impacts to the district from the proposed conditional use.

B. Safety: Conditions relating to safety for persons and property:

1. Building elevation and grading plans which will prevent or minimize flood water damage, where property may be subject to flooding.
2. The relocation, covering or fencing of irrigation ditches, drainage channels, and other potentially attractive nuisances existing on or adjacent to the property.
3. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the district as outlined in this title, or where the lot abuts an arterial or collector street.
4. Appropriate design, construction and location of structures, buildings and facilities in relation to an earthquake fault which may exist on the property, and limitations and/or restrictions to use and/or location of use due to special site conditions, including, but not limited to, geologically hazardous areas, floodplains, fault zones, and landslide areas other than may be required by the sensitive lands regulations.
5. Limitations and control of the number, location, color, size, height, lighting and landscaping of signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development.
6. Plans for the location, arrangement and dimensions of truck loading and unloading facilities.
7. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants and street lighting.

C. Health And Sanitation: Conditions relating to health and sanitation:

1. A guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the town.
2. A wastewater disposal system and a solid waste disposal system meeting standards adopted by the Town Council.

3. Construction of water mains, sewer mains and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the district and to provide for an orderly development of land in the Town.

D. Environment: Conditions relating to environmental concerns:

1. Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife and plant life.

2. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion; and the control of objectionable odors and noise.

3. The planting of ground cover or other surfacing to prevent dust and erosion.

4. Restructuring of the land and planting of the same as directed by the planning commission when the conditional use involves cutting and/or filling the land, and where such land would be adversely affected if not restructured.

**11.09.110: CONDITIONS RELATING TO SPECIFIC TYPES OF USES:**  
(RESERVED)



# **CHAPTER 10**

## **NONCONFORMING USE OF BUILDINGS, STRUCTURES AND LAND**

### Section

- 11.10.101: MAINTENANCE PERMITTED
- 11.10.102: DETERMINATION OF NONCONFORMING BUILDINGS AND LAND USES
- 11.10.103: ALTERATION OR MODIFICATION TO NONCOMPLYING BUILDINGS AND STRUCTURES
- 11.10.104: NONCONFORMING USE OF LAND
- 11.10.105: NONCONFORMING USE OF BUILDINGS AND NONCOMPLYING STRUCTURES
- 11.10.106: CHANGE IN STATUS OF NONCONFORMING USE
- 11.10.107: ALTERATIONS OR MODIFICATIONS TO NONCONFORMING USES
- 11.10.108: RECONSTRUCTION OF PARTIALLY DESTROYED NONCOMPLYING BUILDINGS OR STRUCTURES
- 11.10.109: AMORTIZATION OF NONCONFORMING USES:

### **11.10.101: MAINTENANCE PERMITTED:**

Except as otherwise provided in this title, a nonconforming use of land or a structure may be continued

### **11.10.102: DETERMINATION OF NONCONFORMING BUILDINGS AND LAND USES:**

The board of adjustment shall determine all matters regarding the nonconforming use of buildings and land. Upon application, after public hearing on the matter, the board shall determine if the use of building is nonconforming with respect to the current provisions of this chapter. The planning staff may determine routine and uncontested requests to verify nonconforming uses and noncomplyng buildings and structures, as provided in the rules adopted by the board.

### **11.10.103: ALTERATION OR MODIFICATION TO NONCOMPLYING BUILDINGS AND STRUCTURES:**

Noncomplying buildings and structures with respect to setbacks or height may be continued. Additions, enlargements or structural alterations may be made to the extent that they comply with all requirements of this code. In addition, the board, may allow an enlargement or structural alteration, provided the changes are in harmony with the surrounding and in keeping with the intent of the general plan and this title. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility. If any such noncomplying building is removed, every future use of the land on which the building was located shall conform to the provisions of this title.

### **11.10.104: NONCONFORMING USE OF LAND:**

A nonconforming use of land lawfully existing on the effective date hereof may be continued, provided such nonconforming use shall not be expanded or extended into any other open land, except as otherwise provided in this chapter. If the nonconforming use is discontinued for a continuous period of more than one year, it shall constitute an abandonment of the use and any future use of such land shall conform to the provisions of the zone in which it is located.

### **11.10.105: NONCONFORMING USE OF BUILDINGS AND NONCOMPLYING STRUCTURES:**

The nonconforming use of a building lawfully existing on the effective date hereof may be continued and may be expanded or extended throughout such building or structure, provided no structural alterations, except those permitted by law, are proposed or made for the purpose of extension. The addition of a solar energy device to a building shall not be considered a structural alteration. If such nonconforming use is discontinued for continuous period of more than one year, it shall constitute an abandonment of the use and any future use of the building or structure shall conform to the provisions of the zone in which it is located.

### **11.10.106: CHANGE IN STATUS OF NONCONFORMING USE:**

If a nonconforming use is abandoned, it may be succeeded, upon approval of the town planner, by an equally restrictive or more restrictive nonconforming use, provided such change is effected within one year from the first day of abandonment. After a change to a less intensive use occurs, the use may not change back to a more intensive use.

### **11.10.107: ALTERATIONS OR MODIFICATIONS TO NONCONFORMING USES:**

A use, which has been declared nonconforming, shall not be enlarged or moved except as provided in this section. The board, may allow an enlargement or modification, provided the change is in harmony with the surrounding neighborhood and in keeping with the intent of the general plan and this title. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity. Reasonable conditions may be attached to the approval in order to assure neighborhood compatibility.

### **11.10.108: RECONSTRUCTION OF PARTIALLY DESTROYED NONCOMPLYING BUILDINGS OR STRUCTURES:**

A nonconforming building or noncomplying structure destroyed in whole or in part, due to fire or other calamity, may be restored unless the structure or use has been abandoned. A nonconforming building or noncomplying structure may not be restored if:

The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six (6) months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six (6) months; or

The property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

### **11.10.109: AMORTIZATION OF NONCONFORMING USES:**

The board, under authorization of state statute, may provide for the timely modification or removal of a nonconforming use in order to comply with the general plan and zoning ordinance.

The board may provide for a shorter time period by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of any investment in the nonconforming use or structure, if any.

# **CHAPTER 11**

## **SENSITIVE LANDS**

**(RESERVED)**